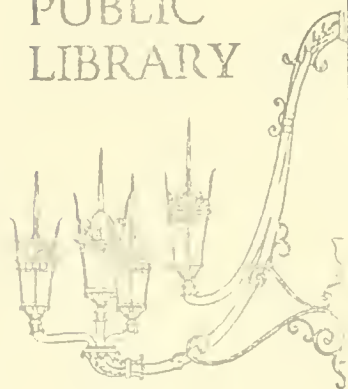


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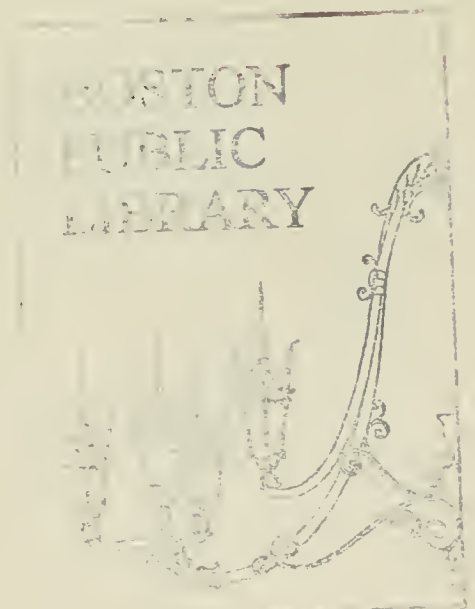
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RESPONSE BY THE CITY OF BOSTON
TO AN ADMINISTRATIVE COMPLAINT SUBMITTED BY
GREATER BOSTON LEGAL SERVICES TO HUD CONCERNING THE
COPLEY PLACE URBAN DEVELOPMENT ACTION GRANT

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Copley Place
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EXECUTIVE SUMMARY

I. Introduction

Copley Place is an exemplary project which deserves HUD's support through the Urban Development Action Grant Program. At present the site is a barren and underutilized turnpike interchange. It pays no taxes, provides no jobs, offers no housing, shopping or other services. The proposed project, through the infusion of \$300 million in private funds, will transform this wasteland into a vibrant urban resource. When it is completed, it will provide more than 6,000 permanent jobs, many to presently unemployed Boston residents, as well as millions of dollars in taxes to the City and State. It will house 100 families of mixed-income and races and will serve as a unifying force for neighborhoods that have been separated by physical barriers for over a hundred years.

The planning process for Copley Place has also been exemplary. The developer has worked with community groups, public agencies and individuals over a three year period to produce a project which is responsive to the concerns of the surrounding neighborhoods. As a result of this process a number of significant changes were made in the project proposal.

Copley Place will be an asset to the City as a whole and to the surrounding neighborhoods in particular. Contrary to the assertions contained in the Administrative Complaint, Copley Place will have at most a minimal effect upon housing in the surrounding neighborhoods. The changes taking place in these neighborhoods are due to a variety of demographic forces, some of which are national in scope. The City believes that an objective evaluation of all aspects of this project will show conclusively that Copley Place should receive UDAG funding.

II. Boston is An Eligible Applicant for UDAG Funds

The City meets all criteria for UDAG eligibility.

- (a) It meets the minimum standards of physical and economic distress.
- (b) It has an outstanding record in providing housing for persons of low- and moderate-income.
- (c) It has demonstrated results in providing equal opportunity for low- and moderate-income persons and members of minority groups. In particular, the City is in substantial compliance with the conditions on its most recent Community Development Block Grant.

III. UIDC Does Require UDAG Funds to Construct Copley Place

A UDAG grant in the amount of \$19,724,000 has been determined to be warranted by the Boston Redevelopment Authority's review of the Copley Place project. The City recognizes the large up-front costs inherent in developing this site which have succeeded in keeping this parcel vacant for the past two decades. These activities add greatly to the construction costs of the develop-

ment without adding directly to the cash flow of the project. To confirm its analysis, the BRA retained an independent consultant which has advised it that the project sponsor's cost estimates and income projections are reasonable and that, based on these estimates, the project would not reach a fair level of return without such a UDAG investment.

Contrary to the complainant's allegation, the developer was exploring funding sources for public improvement type activities in the Spring of 1978 and actively addressing public assistance for the development in the Fall of that year.

The ratio of private investment to UDAG funds will be 15 to 1, far exceeding HUD guidelines.

IV. The Boston City Council Did Act Upon the Application With Sufficient Information to Evaluate the Project's Impact Upon the City and Its Residents

The UDAG application meets all HUD requirements for public review and approval by the local governing body, which in fact voted unanimously to submit the application. More important, the planning of the project involved unprecedented public review from the very beginning. Over 40 Citizen Review Committee meetings were held over three years with neighborhood groups to review the project and obtain their input. As a result of these meetings major changes were made in many aspects of the project and significant affirmative action provisions achieved.

V. Copley Place Will Not Have A Negative Impact On the Special Problems Of Low- and Moderate-Income and Minority People

The overall impact of Copley Place will be positive through the provision of jobs and housing for low- and moderate-income people, taxes to support City services, and loan repayments by the developer that will support neighborhood development projects. While there may be modest impacts in terms of increased demand for housing which may contribute to displacement, this effect is expected to be minimal and the City has policies which will be able to mitigate even these forces.

A. Housing and Displacement

1. The Administrative Complaint confuses natural demographic changes with displacement.
2. The City is meeting its obligations to minimize the effects of any displacement which may occur.
3. Displacement is a complex phenomenon, not well understood. What is happening in the neighborhoods surrounding the Copley Place site is the result of many different factors, some of them national in scope, others more localized. These neighborhoods were in a serious state of physical and economic distress for decades (cf extensive documentation submitted to HUD to qualify the South End, Fenway and South Cove as urban renewal areas) and have only recently begun to show signs of renewed vigor. Thanks to significant expenditure by the Federal, State and local governments, the most serious physical blight has been eliminated, public works and

facilities improved, and over 6,200 units of new or substantially rehabilitated housing has been provided in the impact area for low- and moderate-income people. A recent survey of the South End neighborhood indicates overwhelming approval by the residents for the changes which have taken place and a hope that revitalization will continue. Displacement as an issue was articulated by only 3% of the population.

4. There is no evidence that Copley Place will cause any displacement, though there will certainly be some additional demand for housing caused by the project's employees. The best estimates are that this impact will be small in the immediate area (within a 15-minute walk) and so dispersed outside that area as to be unmeasurable. Many of the jobs generated by the project will go to present residents of the area or the City of Boston, including people who are presently unemployed, underemployed, or not in the labor market. The experience with other major developments in this area - which did have a significant effect on housing demand - does not apply today. Those developments took place at a time when housing prices in the impact area were relatively low and constituted a major inducement to immigration. This is no longer the case.
5. The South End, the area most frequently cited in the Administrative Complaint, has been subject to a great many changes in recent decades. It is not at all clear that what is happening there could be called displacement. It certainly is clear that throughout the period when displacement was allegedly taking place, large numbers of Blacks and Hispanics were moving into the area. Since this is not a phenomenon normally associated with displacement, it suggests that a more complex process is underway and that any generalizations about the impact of Copley Place are subject to qualifications.
6. Should there be any displacement as a result of Copley Place, the City does already have programs in place to address this problem. There already exist in the surrounding neighborhoods 6,200 units of new or substantially rehabilitated subsidized housing. The existence of this housing guarantees that the impact area will remain economically and racially mixed. Furthermore, an additional 1,500 subsidized housing units are presently in various stages of development and will be available to any families who may be displaced. Close to 800 market rate units are also being developed and will help to absorb any demand in the impact area caused by Copley Place. The City also has rent control and condominium conversion ordinances which will help to mitigate the effect of market forces on low- and moderate-income tenants.

B. The Jobs Policy

The City has adopted strong affirmative action provisions for both construction and permanent jobs generated by Copley Place. The requirements for construction hiring include enforcement procedures which provide for final review by an independent third party. To further ensure compliance with these requirements, the City will make referrals from its own training programs and from those of neighborhood based organizations. A placement office will be established

on-site for the hiring of permanent employees and the developer will report on a quarterly basis to the Mayor and City Council on the number of residents working in the project.

VI. Copley Place Will Further Equal Opportunity

As noted above, strong affirmative action requirements will ensure that low- and moderate-income individuals, especially members of minority groups, will benefit from the economic activity generated by the project. There is, on the other hand, no evidence to indicate that minorities will suffer disproportionately from any potential impacts of the project. Nevertheless, any minorities who were to be displaced would have access to a wide range of housing options - both existing stock and anticipated new developments - both within their present neighborhoods and in the rest of Boston.

VII. Environmental Planning Is Proceeding Without Substantial Problems

The environmental review process for Copley Place is expected to be completed in a timely fashion. Draft responses to 95% of the comments received on the draft EIS/EIR have already been prepared and the final EIS/EIR is expected to be submitted for review in September, with completion of the total process in October of this year.

The project is in compliance with all applicable energy conservation requirements and there is no reason to believe that adequate energy will not be available.

The shadows cast by the project will have only a minimal effect on Copley Square compared to those cast by existing development.

The traffic and parking impact studies carried out for the draft EIS/EIR follow accepted principles and indicate only minimal impact, especially in view of improved transit accessibility and the City's commitment to a resident sticker parking program.

VIII. Conclusion

The City of Boston has prepared a detailed response to each point raised in the Administrative Complaint. These responses have been based on HUD regulations, the City's performance, and the facts of this situation. An unbiased appraisal of the case would clearly recognize the validity of the City's UDAG application for Copley Place. In the final analysis this position rests on the basic premise of the UDAG program. Copley Place is a project by which Federal funds will leverage substantial private investment to the direct and indirect benefit of low- and moderate-income people, especially members of minority groups. Under these circumstances, HUD will best fulfill its mandate by approving the City's application for UDAG funding. Copley Place deserves HUD's support.

PREFACE

The Greater Boston Legal Services has filed an Administrative Complaint with the Department of Housing and Urban Development challenging the City of Boston's application for Federal assistance under the Urban Development Action Grant (UDAG) program. Presented herein is a response from the City to the allegations made in this complaint. The Administrative Complaint contains many assertions, unsupported by any evidence. Where sources are cited, they are frequently anonymous and untraceable. The complainants's basic method of argument is to adopt the most simplistic possible reading of a situation and then to follow that to its ultimate extreme. These characteristics are so basic to the complaint that it is necessary to call attention to this approach at the start. The following response will refute these claims and demonstrate that the Copley Place UDAG should be funded by HUD.

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PART I

1. INTRODUCTION

Copley Place deserves HUD's support. In fact, as documented in the UDAG application, it is only with HUD's support that Copley Place is feasible. There is no doubt that this project surpasses all of HUD's eligibility criteria - perhaps to a degree greater than any UDAG funded to date. Copley Place will serve for years to come as a national model for integrating community, City and developer concerns.

The Copley Place project is an exemplary one in many respects. The project will develop a parcel of land which is presently not only underutilized but a blighting influence and transform it into a major urban resource. This project will increase Boston's economic base, provide jobs to Boston residents, minorities and unemployed, provide taxes to support Boston's services, and housing for a population mixed as to income and race. In addition, Copley Place will provide a bridge - both literally and figuratively between two neighborhoods that have been separated for over twenty years by physical barriers. As a final bonus, the UDAG loan repayments by the developer will generate substantial funds which the City will use for further neighborhood development activities.

It is no accident that the project will produce such benefits, because the planning process for Copley Place is itself an example of citizen participation at its best. From the time the private developer announced its decision to proceed with the project, there was extensive involvement of citizen groups and private individuals. As a result of this involvement, major directions were established for nearly every aspect of the project. Guidelines and recommendations produced by the Citizen's Review Committee (CRC) encompassed and had a direct bearing on heights and setbacks, building orientation, circulation patterns, additional uses such as housing and community retail space, and significant affirmative action provisions.

In stark contrast to the numerous studies conducted for the project and the comprehensive public review, the administrative complaint is composed largely of assertions, unsupported by any solid evidence. The issue of displacement which is fundamental to the complainant's whole argument, is an important example of this approach. There is no doubt that there is some displacement in Boston, as there is in many American cities. Nor is there any doubt that Copley Place may contribute somewhat to the demand forces affecting displacement. The City recognizes this and is taking steps to deal with it. The complainant, however, refuses to see any of the ambiguity or uncertainty about the causes or magnitude of displacement. And, of course, the complainant refuses to see any of the steps the City is taking to deal with any displacement that may occur. Perhaps most tellingly, based on their complaint, they have refused to see 6,200 units of subsidized housing built or substantially rehabilitated in the impact area neighborhoods in the last fifteen years. It is these units, plus 1,400 more in various stages of development, that will provide housing for persons displaced by the private market and will guarantee that the South End remains an economically and racially mixed neighborhood. The way the complainant has dealt with the displacement issue indicated quite graphically a disregard for the facts of the situation and the total unreliability of the complainant's arguments.

The City of Boston recognizes the needs of its residents, especially those of low- and moderate-income and minorities. Decent housing, meaningful employment and equal access to opportunity are certainly fundamental needs and represent the basic ingredients of any comprehensive approach to urban development.

The City also recognizes the opportunities which can be created for its residents through the various Federal and State development incentives at its disposal. Of these programs, the Urban Development Action Grant (UDAG) Program has provided the City with the greatest flexibility in addressing urban economic development needs while also giving the City significant leverage to ensure that development provides opportunity to those citizens often left out of the private market process.

The City of Boston recognized and welcomed Copley Place as the major test of its commitment to Boston residents. The negotiation of construction and permanent hiring agreements, significant by any standards, Minority Business Enterprise set-asides and the creation of the neighborhood economic development fund publicly attest to the City's persistence and ultimate success.

In light of the City's endeavors to create opportunity for its low- and moderate-income residents and minorities, the City must take exception to the administrative complaint filed by the Greater Boston Legal Services. The City is prepared to demonstrate that the complainant has substituted unsubstantiated assertions for facts, has ignored any positive benefits of the project which far out weigh any possible negative effects, has demonstrated its lack of knowledge regarding the complex forces at work in urban neighborhoods and thus has reached erroneous conclusions as to the impact of the project.

In particular, the City is prepared to demonstrate that it is an eligible applicant for UDAG funds: The City has achieved reasonable results in providing housing for persons of low- and moderate-income and it has achieved demonstrated results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. Furthermore, and contrary to the complainant's assertions, the City has made significant progress in addressing its CDBG conditions and currently is in substantial compliance.

Secondly, the City of Boston disagrees with the complainant's contention that Copley Place will cause significant displacement or that it will have a negative impact upon minorities. The City is prepared to demonstrate that Copley Place will have a minimal effect upon the surrounding neighborhoods due to existing market forces. In any event, the City does already have programs in place to address displacement problems whether through the development of new subsidized housing, the provision of equal opportunity in the choice of housing or rent control and condominium conversion ordinances.

With regard to the remaining allegations the City stands firm to its position that the developers of Copley Place require an Action Grant in the amount of \$19,724,000 to undertake this project. The grant request has been carefully analyzed by the BRA and its consultants. This analysis has revealed that the project's cost estimates and income projections are reasonable and that, based on these estimates, the project would not reach a fair level of return without such a UDAG investment.

The City will also demonstrate that Copley Place has been the object of extensive public scrutiny, through a 3-year citizen review process and a series of City-sponsored hearings, as well as through extensive coverage by the media.

In response to the allegation that the UDAG application should be rejected because of its uncertain environmental status, in that Copley Place requires substantial additional environmental planning and the design remains tentative, it is respectfully submitted that, on the contrary, planning and design for the Copley Place project is well advanced. The environmental review process is also near completion and is not, as the complainants allege, months, if not years away.

In conclusion, Copley Place not only meets but surpasses all of HUD's selection criteria. The funding of this UDAG is in keeping with the intent of the program and represents significant achievements in the area of affirmative action and citizen participation. An objective evaluation of this project will demonstrate conclusively that Copley Place should receive UDAG funding. Therefore, in light of the evidence presented herein and in the UDAG application, the City of Boston requests that HUD reject this administrative complaint and fund the Copley Place UDAG.

PART II

BOSTON IS AN ELIGIBLE APPLICANT FOR UDAG FUNDS

The City of Boston disagrees with the allegation of the complainants concerning its UDAG eligibility and maintains that it meets and exceeds all criteria with respect to this program. These criteria are contained in 24 CFR 570.457 (b), (c) and (d). For the record, it should be noted that the complainant has completely ignored the criteria in paragraphs (b) and (c), thereby conceding that the City meets the majority of the eligibility criteria. To keep the record straight, however, this response will discuss all three paragraphs.

The City's eligibility under paragraph (b) (minimum standards of physical and economic distress) was reaffirmed on February 20, 1980 when HUD published notification of Boston's continued eligibility under the UDAG program in the Federal Register.

Paragraph (c) talks of results in providing housing, specifically housing for persons of low- and moderate-income. The specific measure to be addressed is the number of Federally or other assisted housing units provided for low- and moderate-income households, especially since 1974. The City's record in this regard is equal if not superior to that of any city in the country. In a metropolitan area of 101 cities and towns, Boston which has 21% of the area population and 35% of the households eligible for subsidized housing has produced over 44% of the area's subsidized housing. Almost 20% of Boston's housing stock is subsidized, compared with 6.5% for the rest of the SMSA.

From July 1974 to January 1980, assisted family housing constructed or under construction in the City of Boston totalled 2,610 units. In the decade of the 70's, Boston provided 29,300 new subsidized housing units, of which two-thirds were for families. In addition, the City assisted in the rehabilitation of 31,755 units in buildings occupied by low- and moderate-income owners. The majority of these units were in two- or three-family structures, which meant that renters were also being assisted through these programs.

The final set of eligibility criteria are set forth in paragraph (d) and deal with results in providing equal opportunity, particularly with respect to housing and employment for low- and moderate-income persons and members of minority groups. Although the complainant nowhere specifically questions the City's performance with respect to low- and moderate-income persons (thereby conceding the City's eligibility on that point), it should be noted that the City's housing and employment policies have been directed to that group of residents. As the above discussion indicated, the City's performance with respect to the provision of housing for low- and moderate-income families has been outstanding. The City has also made a major effort to see that activities conducted under its CDBG program have been in compliance with Section 3 requirements to give priority in hiring and contracting to low-income City residents.

Of all the criteria established by HUD for UDAG eligibility, the only one the complainants have specifically questioned is equal opportunity as it relates to members of minority groups. The record should note that the evidence of the City's eligibility as measured by the majority of criteria is so self-evident that

no argument, however, weak, has been made by the complainant against the City's compliance with these criteria. As will be seen below, the arguments made against this final criteria are extremely weak indeed.

But first a word about the City's overall equal opportunity posture. The City of Boston has always practiced a policy of equal opportunity in employment and other public actions. Early in his administration, Mayor White reiterated this position and established an Office of Human Rights to oversee the City's compliance. As the City itself - as opposed to independent agencies - became more involved in social programs and as American society as a whole developed a new awareness of discriminatory practices and techniques for combatting them, it became clear that additional resources had to be applied to this effort.

In recent years, therefore, the City has expanded considerably the staff and budgets of agencies addressing compliance with equal opportunity guidelines. The Office of Human Rights has been expanded and now has separate divisions to deal with affirmative action in City employment, equal employment in City contracts, and assistance to minority business enterprises. Set-asides exceeding Federal guidelines have been established for utilization of minority workers and subcontractors on all City contracts. An Office of Fair Housing has been established to monitor compliance with fair housing in the private market as well as in subsidized housing. In addition an Office of Federal Compliance has been created to oversee and coordinate compliance activities by all these bodies.

Impact Upon Low- and Moderate-Income Persons and Minorities

With this overview in mind, it is possible to look at the specific indicators mentioned in paragraph 24CFR 570.457(d). It should be noted parenthetically that the complainant's argument with respect to these indicators consists largely of assertion with no evidence presented to support these claims.

1. "Location and occupancy characteristics of Federally or other assisted housing units provided for families and the extent to which the use of these programs promotes and shows progress in the geographic dispersal of minority families outside areas of low-income and minority concentration."

Not only is Boston a leader in the amount of subsidized housing within its borders, but it is perhaps unparalleled in the dispersion of such housing. Such housing exists in every neighborhood in the City, and most neighborhoods have several housing developments. The City's most recent Grantee Performance Report indicates that - in one year alone - subsidized housing commitments were made in 92 of the City's 150 census tracts. Of the 2,610 assisted family housing units constructed or under construction in the period 1974 to 1980, 1,752 (two-thirds) are located outside areas of low-income and minority concentration. Of these, approximately 1,145 are occupied, and about 50% of the occupants are members of minority groups.

Similarly, for the Section 8 existing housing program, as of November, 1979, 340 minority families were being assisted. Of this number, 45 chose to stay in the units they had been occupying. Of the remaining 295, about 50% moved to new quarters in census tracts outside areas of low-income and minority concentration.

Occupancy, of course, is the key question. Although provision of subsidized housing is an important first step in providing equal housing opportunity, to all citizens, it is important to ensure that members of minority groups can actually live in that housing. The above statistics indicate the success the City has had with respect to privately-owned subsidized housing. This is, in part, a result of the various efforts of the City's Office of Fair Housing.

Another component of the low-income housing stock is the public housing owned by the Boston Housing Authority. Although this is an independent agency, the City recognized its responsibility to assist the BHA in making its projects open to all low-income citizens. These projects are in virtually every neighborhood and comprise almost 10% of the City's housing units. In pursuit of this objective the City has undertaken a major effort to protect members of minority groups living in BHA projects. This has involved a wide range of activities by the Police Department, including a number of innovative techniques such as team policing, establishment of a civil disturbances unit, and the use of decoys and plain clothes police. When members of minority groups living in East Boston public housing were subject to violence, the City took the unprecedented step of bringing civil suit against the offenders. The prosecution of this suit demonstrated the City's commitment to equal housing opportunity. Its successful resolution encouraged additional minority group members to choose public housing in East Boston.

2. "Whether the applicant is actively engaged in promoting housing choice in all its neighborhoods through participation in an area-wide affirmative marketing effort, a New Horizons Fair Housing Assistance Project, or other fair housing activities designed to eliminate and prevent discrimination in the private housing market throughout the applicants jurisdiction."

The City of Boston works closely with developers in the greater Boston metropolitan area in designing and implementing affirmative marketing plans. The Mayor's Office of Fair Housing (MOFH) provide technical assistance in developing affirmative marketing plans (which includes providing extensive resources for outreach and projecting minority occupancy goals) and serves as an outreach resource for the developer through its Housing Counseling Program. Counselors inform clients of housing opportunities and are able to identify prospective tenants for the management companies. Counselors are also available to arrange transportation for the prospective minority tenants to view the available apartments and to assist with the application procedure. MOFH offers free advertising space to developers in the Housing Opportunities newsletter, which is dispersed to over 600 sites (community agencies, banks, churches, etc.,) throughout the City, thus ensuring outreach to every conceivable minority group. A representative from the MOFH participates in all pre-occupancy conferences called by HUD.

Furthermore, the City of Boston has signed a Memorandum of Understanding with the Department of Housing and Urban Development to participate in the New Horizons Fair Housing Assistance Project.

The Mayor's Office of Fair Housing has other activities designed to eliminate and prevent discrimination in the private housing market in Boston. The Public Information Program was launched in 1978 to increase the public's awareness of state and Federal fair housing/equal access laws, citizen rights

guaranteed under these laws, and the functions of MOFH. Activities to date have included numerous brochures, subway posters, billboards, public service advertisements on television and radio, interviews on television and radio programs, and the Housing Opportunities newsletter.

In addition to activities previously mentioned, the Housing Counseling Program receives, investigates, evaluates and attempts to conciliate housing discrimination complaints. Housing counselors are available to answer any and all queries regarding fair housing laws, housing laws, homeownership, and all related housing issues. Housing counselors work out of the Little City Halls in each neighborhood; they are in the process of meeting every broker in each neighborhood to explain fair housing laws, the function of the Mayor's Office of Fair Housing and to distribute fair housing posters.

A fair housing ordinance and a home rule petition have been submitted to the City Council. When passed, these ordinances will enable the proposed Fair Housing commission to subpoena documents and witnesses in the course of an investigation, make findings, and impose penalties, including fines up to \$10,000. The ordinances will expedite and enforce the elimination and prevention of discrimination in the private housing market.

3. "Whether relocation as a result of Federally-assisted programs has resulted in expanded housing opportunities for minorities outside areas of minority or low-income concentration."

If relocation were necessary in the future, the system described above would be available to guarantee expanded housing opportunities for any minority group members to be relocated. In addition, of course, any persons eligible for assistance under the Uniform Relocation Act will benefit from the services of the BRA Relocation Office.

4. "Whether the applicant is a participating jurisdiction in an approved Housing Opportunity Plan."

As the complainant acknowledges, Boston is a participant in the HUD -approved Housing Opportunity Plan for the Boston SMSA. It should be noted that this plan recognizes the disproportionate share of the area's low-income and minority families presently residing in the City and gives primary emphasis to the provision of housing opportunities in other jurisdictions.

5. "The applicant's performance reports to HUD and/or the Equal Employment Opportunity Commission with respect to employment indicate affirmative efforts to hire, train and promote minorities, females and lower-income persons."

These reports have been submitted and are available for review.

CDBG Conditions

The foregoing detailed analysis of the City's eligibility for the UDAG funds shows clearly that Boston meets each of the criteria established by statute and regulation for this program. The complainants, while neglecting to mention most of the UDAG criteria, have alleged that the City has failed to comply with conditions of its most recent Community Development Block Grant.

The following information demonstrates that the City is, in fact, in substantial compliance with the CDBG contract conditions and assurances cited below.

- A. "That the City develop, with the Boston Area Office and a representative of a local academic institution, a system of evaluating fair housing progress."

In an effort to assure quality performance, Boston went beyond the condition requirement by consulting with dozens of local academicians and inviting twenty of them to serve on a committee to develop a system for evaluating fair housing progress. From this committee, a proposal from the Boston Urban Observatory to develop a fair housing evaluation system evolved. It incorporated the use of academic consultants with expertise in fair housing, evaluation systems, and urban issues. A contract was let, and the fair housing evaluation system is currently being developed. The evaluation system will be designed to measure fair housing progress in Boston's housing market as a whole and the impact of City programs (i.e., CDBG programs, MOFH, Community Disorders Unit, and HAP) on furthering fair housing. The plans generated by the evaluation system design will be an integral part of the Year VI CDBG activities.

- B. "That the City appoint citizens, in consultation with HUD, to a Fair Housing Advisory Board..."

The Advisory Board has been appointed and has begun meeting. The specific charges that they are currently addressing include: (1) analyzing and determining whether mortgage lending patterns and banking practices have a negative effect on access to housing, (2) reviewing and commenting upon the Community Profile developed by the City, and (3) evaluating and monitoring the provision of public services, real estate and banking practices, and development and rehabilitation policies in neighborhoods experiencing racial transition and in integrated neighborhoods. After the Fair Housing Advisory Board reports on these charges, they will develop a three year fair housing plan with goals and timetables and will develop a fair housing strategy to enhance freedom of choice in the City for all minorities.

- C. "That the City develop a community Profile..."

The Community Profile has been developed and distributed to HUD, MCAD, City departments, the Fair Housing Advisory Board, Boston Urban Observatory and other interested parties. Its availability will be advertised in the September/October issue of Housing Opportunities.

- D. "That the City plan and execute the following programs..."

1. "Housing Testing Program - develop and implement a program for housing testing both in response to specific complaints of discrimination and as a tool in identifying the existence of discriminatory barriers to housing access."

The development and implementation of the housing testing program in response to specific housing discrimination complaints took place in FY'79. Testing aids the counselor in the course of the investigation to determine whether

discrimination has or is likely to have occurred. The fair housing evaluation system and the fair housing advisory board are formulating recommendations for the expanded testing work plan. Furthermore, the fair housing ordinance contains a specific provision that will allow testing; testing will be an integral part of our Year VI CDBG program. Through identification of discriminatory barriers to housing access, the auditing and testing program will enable the City to tailor and target anti-discrimination programs.

2. "Development and Submission to City Council for Passage of a Fair Housing Ordinance - It is expected that the Ordinance will provide for both investigation and enforcement authority including monetary penalties for any violations thereby."

The Fair Housing Ordinance and home rule petition submitted to City Council include protected classes and monetary penalties that far exceed those provided for under Title VIII. In addition, an ordinance to create a Boston Commission Against Discrimination (BCAD) has been submitted to the Council. The BCAD ordinance includes creation of a Neighborhood Safety Unit, which would work in the neighborhoods to anticipate and predict possible incidents of disorder or violence and take action to avoid such disorder or violence.

- E. "That the City continue the Mayor's Office of Fair Housing (MOFH) as an ongoing entity in the City's organizational structure."

The Mayor's Office of Fair Housing was established in 1977 as the centralized policy and planning unit for fair housing in the City of Boston. In 1978, MOFH expanded to become a service delivery agency. MOFH has continued since then to function as a service delivery agency and as a policy and planning unit. Passage of the Fair Housing Ordinance and/or BCAD will make the Office of Fair Housing a permanent part of the City's organizational structure.

II. Assurances

- A. "The City will continue to implement the Metropolitan Fair Housing Agency Special Assurance given to HUD by the City in connection with the Year IV CDBG funding approval."

This has been done. A proposal was submitted to HUD in August, 1979. The formation of a metropolitan fair housing agency was widely supported by the Massachusetts Commission Against Discrimination, the Citizens Housing and Planning Association, the Metropolitan Area Planning Council, Education/Instruction, and other fair housing-related organizations. However, they felt that the City was not the appropriate vehicle for establishing such an agency. The proposal did, however, provide the impetus for these groups to meet and draft alternative proposals. These meetings are on-going and MOFH is playing an active role.

- B. "The City will provide special assurance including a timetable for implementation for the following:

1. expand the housing counselor's program."

This was accomplished in January, 1980. Housing counselors are available at Little City Halls throughout the City in addition to the Mayor's Office of Fair Housing. The availability of counselors in the neighborhood has personalized services and has transformed the role of the housing counselors from an information and referral agent to an advocate.

2. "monitor affirmative marketing activities of real estate developers."

As stated in HUD's Grantee Performance Report, services are being provided on call. HUD refers developers to MOFH for affirmative marketing assistance. HUD also invites MOFH to participate in pre-occupancy conferences, at which time MOFH again offers technical assistance to the developers.

3. "enter into HUD's Voluntary New Horizons Program."

The Memorandum of Understanding was signed on June 5, 1980. Participation in HUD's Voluntary New Horizons Program will enable the City to secure expertise and assistance in planning and implementing comprehensive fair housing strategies.

- C. "The City assures that the fair housing programs initiated by the City pursuant to the Year IV Funding Approval shall continue to be carried out by the City through Program Year V."

The City has complied. The City's commitment to equal opportunity and fair housing has increased with each year of its participation in the Community Development Block Grant Program. The City will continue programs implemented under CDBG contract conditions and assurances. The City will also continue to take aggressive initiatives, such as establishing a Boston Commission Against Discrimination and a Boston Committee comprised of representatives from four major institutions charged with bringing minorities into the mainstream of responsibility in order to enhance the City's ability to deliver on the fair housing commitment.

There is, finally, reason to doubt the relevance of arguments concerning one Federal program to the question of eligibility for another one. In NAACP, Boston Chapter v. Harris, (No. 78-850 (D. Mass., order on motion to dismiss January 2, 1979), 607 F.2d 514 (1st Cir. 1979), the U.S. District Court ruled on the standing of challengers to a UDAG grant. The challengers, like the complainants in the present case, sought to block a UDAG grant by alleging that HUD had not complied with the statutory requirements for CDBG grants. The district court, Skinner, J., granted defendant's motion to dismiss, ruling that City compliance with conditions attached to a CDBG grant was not statutorily required by UDAG. The First Circuit found other grounds to grant standing, and neither approved nor disapproved the lower court's reading of the statute. 607 F.2d at 523.

The complainants here, unlike those in Boston Chapter, base their complaint on UDAG, rather than CDBG, eligibility requirements. However, they seek to use the City of Boston's alleged failure to comply with CDBG conditions as

the standard by which the UDAG grant should be judged. It is true that 42 USC 5318(b) (1), the UDAG eligibility requirements provision, requires that grants be made only to cities with "demonstrated results" in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. But it does not necessarily follow that alleged noncompliance will defeat a City's UDAG eligibility.

At least one court has held that failure to meet conditions imposed by an earlier CDBG grant does not bar a subsequent grant. Broaden vs. Harris, 451 F.Supp. 1215 (W.D. Pa. 1978). In Broaden, community organizations challenged HUD approval of CDBG funds to the City of Pittsburgh, alleging, inter alia, that the City had not carried out requirements of earlier CDBG grants. 451 F.Supp. at 1226-7. The court held that these allegations could not be used to block a new application for CDBG funds:

"Thus, it was clearly contemplated by Congress and in the implementing regulations that a recipient will not have completely performed under a previous application when seeking funds for the next year, and such failure to perform, even if substantial, does not require the Secretary to refuse the new application: Id."

In Broaden, the Court rejected the attempt to use compliance with past CDBG requirements as a standard for judging future CDBG grants. Here, the complainants seek to use compliance with past CDBG requirements as a standard for judging an entirely different UDAG grant, a grant meant to encourage a different aspect of inner-City revitalization, that of private investment.

The standard for "demonstrated results" which the complainants urge on HUD is not statutorily required. Furthermore, it is inconsistent with the Act in that it applies eligibility requirements established for one grant program, to another program which, though it has the same goal of urban revitalization, emphasizes the separate factor of private investment. To judge the City's UDAG grant application by its compliance with conditions set under a CDBG is inappropriate and a distortion of the goals of UDAG.

PART III

UIDC DOES REQUIRE UDAG FUNDS TO CONSTRUCT COPLEY PLACE

The legislated purpose of the UDAG program is to leverage private investment through the injection of UDAG funds. The certification that "but for and only for the injection of UDAG funds is this project feasible" is the standard proviso included in each UDAG application. While the UDAG request for \$19,724,000 is significant, it will in fact leverage approximately \$300 million of private investment which represents a 15:1 private to public ratio.

The Copley Place UDAG application represents 1½ years of analysis by the BRA and negotiations with the developer to establish the appropriate level of UDAG request, determine the loan/grant split and set reasonable terms and conditions for repayment of the UDAG loan.

Contrary to the complainant's allegation the developer was exploring sources for public funding as early as the spring of 1978. In a document distributed to the City and State in October, 1978, the developer enumerated approximately \$22 million in project site premium costs and stated that they were requesting public funding to defray much of this cost. In addition, the Air-Rights Lease signed December, 1978 between UIDC and the Massachusetts Turnpike Authority makes direct reference to UDAG and other public funding assistance. (Please see Air-Rights Lease, Section 15.13, Certain Governmental Assistance).

The complainant has stated that a previous application was filed. The City has no knowledge of any such application.

A UDAG grant in the amount of \$19,724,000 has been determined to be warranted by the Boston Redevelopment Authority's review of the Copley Place project. The City recognizes the large up-front costs inherent in developing this site which have succeeded in keeping this parcel vacant for the past two decades.

The site itself contains many obstructions, constraints, and impositions upon its use and development including the following:

- . The Turnpike rights-of-way, exit ramps, retaining walls, berms, signs, lighting and appurtenances, all vehicular traffic using the rights-of-way and ramps, statutory and regulatory use and construction requirements imposed by the Turnpike and air and noise pollution and vibration created by traffic.
- . The B & A rights-of-way, appurtenances and air and noise pollution and vibration created by the rail traffic.
- . The underground water main which traverses in an east-west direction across the length of the site.
- . The underground site drainage system, which crosses the site at many locations.
- . The Southwest Corridor rail right-of-way along the southern boundary line of the site including abutting retaining walls.

These large up-front costs include at least \$3.8 million in activities such as water main relocation, street revisions and temporary traffic rerouting, which are municipal in nature. In all, UIDC has identified a total of \$27.6 million worth of special site costs.

Included in these costs is the following list of required site improvement activities to be undertaken as part of the development:

1. Temporary Traffic Rerouting

Construction on the development site will be phased in order to maintain traffic at all times on the Turnpike, the Turnpike exit ramps, and surface streets. Relocation of Stuart Street and relocation of the ramps will require temporary traffic re-routing on surface streets during two distinct construction phases. Phase I will discontinue Stuart Street between Huntington Avenue and Dartmouth Street necessitating a detour along Huntington Avenue to Dartmouth Street to Stuart Street. Once Stuart Street is relocated, construction to relocate Ramps B and D can take place, but will require a temporary exit ramp from the Turnpike to be constructed to Stuart Street. Turnpike traffic destined for Huntington Avenue westbound will be detoured northerly along Dartmouth Street to Huntington Avenue. These detour systems will require alterations to traffic control devices, possibly traffic control personnel during peak traffic periods, and Phase II construction of a temporary bridge of 12,000 square feet over the Turnpike.

2. Relocation of Water Main

The 42-inch water main that traverses the site from St. Botolph and Harcourt Streets to St. James and Dartmouth Streets is sufficiently close to ground surface to require relocation of certain of its segments. Reconstruction of Ramps B and D will necessitate relocation of 450 feet of the water main within the development site. To permit access to the pipe from beneath the proposed buildings, this segment will be located in a utility tunnel.

To permit below grade construction on the triangle site, the water main will be relocated to relocated Stuart Street and Dartmouth Street. Approximately 640 feet of pipe will be constructed in a conventional manner beneath these streets.

3. Street Revisions and Relocations

Huntington Avenue from Dartmouth Street to Exeter Street will be re-aligned slightly, and Stuart Street from Dartmouth Street to Huntington Avenue will be relocated and aligned with Stuart Street east of Dartmouth to enlarge the triangle site. Dartmouth Street will be reconstructed to accommodate the grade change near its intersection with Stuart. Huntington Avenue will also be elevated slightly to permit development of underground parking at the hotel sites. Harcourt Street will be discontinued north of St. Botolph Street and will be used for major service access to the project.

4. Turnpike Ramp Relocations

Existing Turnpike off-ramps B, C, and D will be revised by the project. Ramp C, which now provides direct access to Dartmouth Street north of Buckingham Street, will be eliminated in order to develop Parcel C. Ramps B and D will be reconstructed to permit access to the interior of the main development site from Harcourt Street and from Huntington Avenue. The reconstructed ramps also will improve flow of traffic exiting the Turnpike by reducing motorists' confusion and the resulting hazards occasioned by the current counter-intuitive divergence of traffic.

Approximately 19,275 square feet of Ramp B will be constructed on grade, and 2,010 square feet will be in a U-section near the entrance to the underpass of Huntington Avenue. Approximately 3,000 square feet of Ramp D will be constructed on grade, and 14,490 square feet will be constructed in structure over the railroad tracks and existing Turnpike ramps.

5. Pedestrian Bridge accross Huntington Avenue

A pedestrian bridge across Huntington Avenue from the Prudential complex to the Copley Place development will help link the developments and continue the diagonal movement across the site from the New Back Bay Station to the Prudential Center.

6. Landscaping

Some of the development site will be landscaped open space dedicated to public pedestrian circulation and to the visual enhancement of the neighborhood. These areas include, Harcourt Street, the plaza area near the corner of Dartmouth and Stuart Streets, and an extension of the Dartmouth Street Mall. At the Dartmouth/Stuart entrance to the retail center the public mall and plaza entrance will be constructed over the Turnpike deck. This entrance is designed to provide a park-like extension of Copley Square and a gateway to Copley Place.

7. Enclosed Parking

The development of parking facilities at Copley Place will require specific construction elements and costs which would not occur on a less restrictive site. Among these are: additional excavation work, garage accessway, ventilation systems and sprinkler systems. In addition, parking will be provided within the loop of the Turnpike exit ramps with walls provided to separate ramp areas from parking areas. The exterior walls of the garage will also be fully enclosed as opposed to partially enclosed.

8. Ventilation of the Turnpike and B & A Tracks

The Turnpike and B & A tracks pass through tunnel sections beneath the Prudential complex immediately west of the Copley Place site and the John Hancock Garage, immediately east of the site. The intervening open section, approximately 500 feet in length, now provides a means of ventilating these enclosed sections. Covering the railroad tracks within

the development site and also the currently open segment of Turnpike will necessitate design studies of the existing Prudential and John Hancock ventilation systems as well as additional ventilation systems under the Copley Place project. Moreover, it will be necessary to ventilate exit Ramps B and D which currently are open but which will be enclosed by the Copley Place development, as well as the enclosed parking garage. The ventilation system will require fans to handle approximately two million cubic feet of air per minute as well as ventilation shafts and machinery rooms.

9. Lighting of the Turnpike and Ramps

The segments of the Turnpike and exit ramps that will be covered by the project must be lighted. Approximately 500 feet of Turnpike and 1,700 feet of ramps will be affected.

10. Dartmouth/Stuart Entrance to Copley Place

At the Dartmouth/Stuart Street entrance to the proposed retail development, the Turnpike will be decked and a public plaza and mall entrance will be constructed. This entrance will provide a spatial extension of Copley Square and act as a major focal point. The public plaza and mall entrance will cover approximately 21,800 square feet.

These activities add greatly to the construction costs of the development without adding directly to the cash flow of the project. To confirm its analysis, the BRA retained an independent consultant which has advised it that the developer's costs estimate and income projections are reasonable and that, based on these estimate, the project would not reach a fair level of return without such a UDAG investment. While the project might be able to absorb approximately \$9 million of the special site costs, \$18.8 million in costs cannot be supported by project income.

However, the City does recognize the significant growth ability of the project which would allow Copley Place to amortize these costs over a delayed pay-back period. In recognition of this, the City has designed a UDAG repayment plan requiring UIDC to pay interest upon the portion of the UDAG which has been structured as a mortgage loan. The \$3.8 million grant portion of the UDAG would be directed at site work items of a municipal nature. The balance of the UDAG would be provided to the developer as a \$15 million loan with provision for deferred interest payments, for application towards the balance of such site costs.

The Boston Redevelopment Authority will be the recipient of the UDAG funds from the City. The BRA will administer the grant and loan portions of the UDAG.

Of the \$18,800,000, \$15,000,000 will be provided as a mortgage loan to the project on the following terms:

The loan will bear interest at 5% for 7 years and then be fully amortizing at 10% over a 20-year period (years 8-27).

Interest on the outstanding loan balance at 5% during years, 1, 2, 3 and 4 shall be paid in an amount up to \$500,000 per annum in cash with the balance accruing and compounding at 5% interest through year 7 and then amortized over a 20-year period (years 8-27) at 10% interest. During years 5, 6, 7 interest at 5% will be payable annually. All outstanding principal and interest beginning in year 8 will be fully amortized over the subsequent 20-year period with interest at 10% annually. Payments will be fully amortizing, level payments and made monthly.

Conventional default provisions will be included in the transfer of funds/ mortgage loan agreement between the BRA and UIDC which will insure the City's right to compel performance of the agreement.

The City's review of the project construction cost estimates indicates that the developer's construction costs estimates may be low in the present and projected construction economy. It is significant to note that these costs might be subject to rapid increases with the current rate of inflation. The developer's construction costs estimates can only project variable economic forces and may be significantly lower than actual costs. Cost overruns due to construction market forces and the complexity of a project of this scope, increase the financial risks to the project sponsor.

Although projected market demand for the project components is strong, the initial rent up phase may take considerably longer than the developer estimates. This would then impact the initial cash flow critical to the project. In addition, the rent level projections may be optimistic for the first operating years. This also has the potential of increasing the financial burden to the developer. It should be pointed out that the complainant appears to recognize the dilemma which the developer faces when in fact it states on Page 53 of the complaint:

"It is hard to imagine a worse time to design and plan a development of this magnitude. The economy is now in constant flux with interest rates rising and falling daily. The economy is heading into what many predict should be the deepest recession since 1940..."

It is respectfully submitted that contrary to the allegations contained in Part III of the Administrative Complainant, that UDAG funds are in fact necessary to the construction of Copley Place and construction of Copley Place will further the objectives of the UDAG program by stimulating private investment and creating opportunities for low- and moderate-income people and minorities.

In view of the financial considerations presented above, including the size and complexity of the project, potential cost overruns, inflationary construction costs, project delays in initial rent-up and resulting financial risks, the City believes that to induce this most important development on a difficult site, an Action Grant in the amount requested will be required.

PART IV

THE BOSTON CITY COUNCIL DID ACT UPON THE APPLICATION WITH SUFFICIENT INFORMATION TO EVALUATE THE PROJECT'S IMPACT UPON THE CITY AND ITS RESIDENTS

The City of Boston disagrees with the complainants narrow interpretation of the public review process conducted for Copley Place. Copley Place has been the object of extensive public scrutiny, both in the media and through three years of public meetings conducted under the Copley Square Citizens' Review Committee (CRC). The City Council action represented the final stage of the City's own review of the project, conducted only after the application had been defined, the necessity for the grant analyzed by the BRA and its consultants, and the outstanding issues of the UDAG loan repayment, Minority Business Enterprise provisions and permanent and construction jobs resolved. The process took 1½ years. The complainant's attempt to focus disproportionate attention upon the remarks of a single councilman--a councilman who did vote for the project along with all of his fellow councillors--does not do credit to the review conducted by the CRC and the significant contributions which their input has made upon the final shape of the project.

1. Public Review of the Project

Over the past three years, the public has participated in an extensive community review process for the proposed Copley Place project with over 40 CRC meetings. During this time, the project has evolved in an open public review. The CRC became the public forum which identified design, environmental and other community concerns and produced "Guidelines" for the project. During this period the CRC produced four (4) reports:

1. Interim Report. This report defined issues to be discussed by the CRC during their review of the project.
2. Final Recommendations. This publication was a summary of planning workshops dealing with design, land use, jobs, housing, traffic, economic impact, pedestrian circulation, wind and shadows.
3. Summary of Workshops. This report was published upon completion of a series of meetings evaluating the project proposal at that time and put forth what were considered unresolved issues.
4. Recommendations of the Task Force on Economic Development.

The task force, a subcommittee of the CRC, put forth recommendations on hiring for permanent jobs and construction jobs and business opportunities in order to assure significant benefits for the community from the project.

From the CRC review process has come significant design changes and affirmative action commitments. These include the following, many of which have been incorporated into the final air-rights lease between UIDC and the Massachusetts Turnpike Authority.

1. Revisions of project design to facilitate transit and pedestrian connections, building locations, and heights sensitive to surrounding uses.
2. Provision for active frontage of portions of the project abutting public streets.
3. Provision for a minimum of 100 units of housing with at least 25% for low-income households.
4. "Tenant will attempt to set aside space in the range of 15,000 to 20,000 square feet facing on the proposed deck over the Southwest Corridor transit line for community-oriented stores. Of these, approximately 50% will be reserved for Community Development Corporations and Minority Business Enterprises at below market rents." (MTA/UDIC Lease)
5. Affirmative Action in construction employment requiring 20% minority employment.
6. Hiring goals for permanent employees of 50% Boston residents, 50% women, 30% minorities, 17.2% from surrounding neighborhoods, and good faith efforts to employ handicapped persons.
7. Goals for minority business contractors and suppliers of not less than 5% of the total construction contracts; and
8. Provisions for a Design Review Subcommittee review of plans and specifications in a continuous advisory process with the Turnpike Authority.

In 1978, a Draft Environmental Impact Report (EIR) was prepared based on the development program at that time. The EIR did not include an economic impact analysis for Copley Place. Subsequently, the Boston Redevelopment Authority, as the City's planning agency responsible for the careful monitoring and execution of development proposals within the City, contracted with private consultants to do a housing impact study and a retail impact study for Copley Place. These were then presented to the CRC for review.

Due to the change in the development program in the Spring of 1979, a new series of CRC meetings were planned. The results of the re-study were introduced to the new series of CRC meetings. The CRC resumed its assessment of the modified development program, plans and impacts. A total of 15 CRC meetings were held from February 1979 through March of 1980. (A schedule of meetings is provided for reference).

As a result of the CRC meetings, several traffic assumptions were modified and the geographical area of study was enlarged.

After the proposed development program changed in 1979, the respective consultants of the Housing Impact Study and the Retail Impact Study were rehired by the BRA to undertake new studies. The draft for each of the scope of services was distributed to the CRC for their review and comment before being finalized. In advance of the public discussion, the Housing Impact Study was distributed in November, 1979, as a draft so that the CRC could have additional review and input into the document prior to the finalization of the report. The Retail Impact Study was also available in advance of the consultant's presentation to the CRC and was subsequently significantly expanded to consider additional citizen concerns.

The request for an Urban Development Action Grant (UDAG) required preparation of an Environmental Impact Statement (EIS) in addition to the State-required Environmental Impact Report (EIR). A new draft EIR/EIS based upon the revised development program combining the requirements of both the EIS and EIR was undertaken by the developer's consultant under the supervision of the BRA. Several studies which support the EIS were reviewed by the BRA and made available to the public. The Draft EIR/EIS was available to the public in mid-February, 1980, followed by a CRC meeting in early March and a public hearing two weeks later. This document was distributed to 52 agencies and community groups.

As Copley Place moves toward construction, the Design Review Subcommittee of the CRC will continue to meet with the developer and its architects to review detailed project drawings in relationship to the CRC guidelines and to comment on architectural issues such as choice of exterior materials, landscaping, and setbacks.

In summary, the Citizen Review Process for Copley Place evidences an open decision-making process. It reflects the desire of City and State governments and an interested developer to work cooperatively on a difficult site while ensuring full and active participation by public agencies, community groups, and all interested citizens.

2. Public Input into the Preparation of the UDAG Application and Review of the Document

On November 19, 1979 the first City-sponsored UDAG public hearing provided a forum in which the public formally expressed concerns which were then taken into account in preparation of the draft UDAG application. Testimony was also taken by the Neighborhood Development Committee of the City Council on April 15, 1980. On April 23, 1980, copies of the draft application were presented to the City Council and on April 23 and 24, 1980, a draft of this application was distributed to 16 community groups and made available for review in the Boston Public Library, Back Bay, South End and Fenway Little City Halls as well as the BRA library.

In keeping with the City's desire to provide opportunities for citizen participation, a draft of the application without employment provisions, then under negotiation, was made available to the public. At that time the City was in the process of conducting negotiations with the developer on employment, affirmative action and minority business utilization, in order to assure significant benefits for minorities and City residents. These employment issues had been originally raised by the CRC Task Force on Economic Development and at the November 19, 1979 UDAG public hearing. During the City Council process addenda, were provided by the City to the Council and the public for these additional employment benefits agreed to by the developer.

At the April 28, 1980 public hearing, detailed presentations were given by the BRA and the Developer to the City Council and then testimony was taken from the public. On Tuesday, April 29th the Neighborhood Development Committee of the City Council resumed public testimony to further discuss the application. On Wednesday, April 30, 1980, the application was reported out of committee to the Council. Although the GBLS would have HUD believe otherwise, the vote of no recommendation was by no means a disapproval of the application by the committee but rather a vehicle to bring the issue to the floor of the Council. After due process the Council unanimously approved the submission of the application.

As a result of the citizen review and City Council processes, the UDAG application was revised in two important respects.

1. Inclusion of a letter bearing evidence of the City's commitment for mixed-income housing on the Tent City site.
2. A neighborhood residency parking program was accepted by the City and affirmed by City Council.

As a final note, written or taped records were kept at all City-sponsored public hearings and are available for HUD's review.

Complete CRC Schedule of Meetings

1977 Information and Concerns

May 19: Orientation
June 2: Legal and Traffic Issues
June 9: Physical Constraints
June 16: Development Economics, Business Impact, and
Community Economic Development
June 23: Scheduling and Summary
Traffic Working Group
June 30: Interim Report Distribution

Recommendation Development

July 7: Community Economic Development
July 13: St. Botolph Working Group
July 14: Impact on Back Bay Businesses
July 15: Working Group on Business Opportunities
July 26: Working Group on Jobs and Training
July 28: Preliminary Physical Design Presentation
July 29: Working Group on Business Opportunities
August 4: Neighborhood Stabilization
August 12: Working Group on Business Opportunities and Jobs
August 18: Draft Recommendations and Revised Schematic Design
September 8: Comments and Revisions of Draft submitted to CRC
September 16: Discussion of Revisions
September 22: Recommendations submitted to State, MBTA, developer

1978 June 15: Introductory Meeting

July 6: Environmental Impact Review
July 13: Pedestrian and Design Issues
July 20: Economic Impact
July 26: Traffic Impact
August 3: Social Impact
August 10: Summary Meeting and Recommendations

1979 February 22: Review of necessity for Copley Place re-study

May 24: General meeting to start new round of CRC meetings
(UIDC handout #1)
May 31: Review of new design and program (UIDC handout #2)
June 14: Review of public benefits and public funding requirements (UIDC handout #3)
June 27: Transportation planning issues - session 1,
Methodologies (UIDC handout #4)
July 12: Environmental Issues - session 1. Outline of
proposed EIR/EIS (UIDC handout #5).
August 2: Review of scope of services for retail and housing
impact studies (no handout for meeting #6)
August 9: Transportation planning issues - session 2
(UIDC handout #7).
August 16: Design review and housing review (no handout for
meeting #8)

1979 (cont'd)

- August 30: Environmental issues - session 2. Geology, energy conservation, noise, historic properties, wind, air quality (UIDC handout #9).
- September 6: Environmental issues -- session 3. Traffic and air quality (UIDC handout #10).
- September 20: Workshop on Housing Impact Study. (ERA handout)
- November 8: Meeting on Retail Impact Study, UDAG Public Hearing Process.
- November 15: Meeting on Housing Impact Study, Public Approvals Process, and UDAG Application components.

1980 March 6: Meeting on Draft EIR/EIS and public hearing format.
April 14: Update meeting on UDAG application.

PART V

COPLEY PLACE WILL NOT HAVE A NEGATIVE IMPACT ON THE SPECIAL PROBLEMS OF LOW- AND MODERATE-INCOME PEOPLE AND MINORITIES

A. HOUSING AND DISPLACEMENT

This section of the Administrative Complaint, which is the heart of the document, bases nearly all of its argument on the unsubstantiated, twin allegations that: (1) Copley Place is the primary cause of displacement in the neighborhoods surrounding the development site, particularly the South End; and (2) that the displacees are disproportionately low- and moderate-income persons, particularly minorities.

With these allegations restated in slightly varying form on nearly every page of this lengthy section, repeated, however, with a notable lack of supporting evidence or empirical data; the complainant embarks on a bold strategy to prove its twin theses by portraying Copley Place as a primary cause of a myriad of urban evils.

The complainant apparently thinks that the sheer number of repetitive arguments will convince HUD that Copley Place will cause displacement among minorities and the poor. This section will refute the strategy that repetition constitutes proof, and more importantly, disprove the complaint's central allegations by showing the following:

- o The complainant fails to distinguish between, or even recognize the various forces which shape a community's profile.
- o The complainant confuses, and often equates, demographic change and natural turnover with displacement, thereby greatly exaggerating the problem.
- o The complainant ignores the extraordinary amount of City-sponsored, assisted housing built, or about to be built, which is or will be available to households who have been, or may be displaced, for whatever reason.
- o The complainant refuses to acknowledge any economic benefit which will accrue to needy City residents by providing badly needed jobs, which expand economic and housing opportunities.
- o There is no evidence that Copley Place will displace significant numbers of households from the surrounding neighborhoods. An independent consultant (Economic Research Associates) retained by the City to measure Copley Place's probable impact on housing was able to determine that the likely increase in demand for the immediate area would amount to 980 housing units over a five-year span.
- o This additional demand could be satisfied in a number of ways. Much of the demand will be naturally absorbed by units which are being voluntarily vacated by their previous occupants. A significant portion of this demand might be absorbed by the anticipated completion of 2,300 new units of market rate and assisted housing in the surrounding neighborhoods.

- o This response will clearly demonstrate there exists sufficient new housing production and sufficient voluntary turnover in the impact area to offset any direct demand attributable to Copley Place by a factor of two or more. Demand can only result in large-scale displacement where normal turnover and new production are not present. This is not, as this response will prove, the case for Copley Place.

The discussion which follows will put the difficult issue of housing and displacement in its proper perspective, not only to recent demographic trends but to an historical context as well. Responsible policy decisions require informed analysis and a willingness to accept ambiguity and complexity. The authors of the Complaint lack this willingness as evidenced by their prejudicial treatment of the UDAG application.

A1 Displacement Defined

The complainant defines displacement as "involuntary movement of people from their dwelling units because of circumstances beyond their control". The City accepts this as a reasonable working definition in that it clearly recognizes "involuntary movement" as a critical element. However, this definition is not necessarily a definitive one. One can conceive of a number of causative factors leading to involuntary movement which do not fit the generally accepted notion of displacement such as illness, infirmities associated with old age, divorce, or loss of employment. In certain inner-city neighborhoods such as the South End and Fenway with high percentages of elderly, relatively higher death rates play a statistically significant role in changing a community's demographic profile over time. It is important to note that this impact area historically has contained higher percentages of the elderly, the unemployed, young adults and single persons (whether divorced or never married) than the City's population as a whole. As a result, it is more likely to evidence greater demographic instability and change, than more traditional family oriented neighborhoods.

HUD's definition of displacement is narrower, restricting itself to movement caused by "conditions which affect the dwelling or its immediate surroundings." These conditions must further be "beyond a household's reasonable ability to control or prevent" and "make continued occupancy... impossible, hazardous or unaffordable."

It is displacement which meets these criteria that concerns the City, and to which the City is rightfully addressing itself through its employment residency requirements and housing programs. The complainant repeatedly confuses natural demographic changes, whatever their cause, with displacement. To do so, is to fundamentally misunderstand the deep social, economic, and cultural forces at work in America during the last third of this century.

A2 The City and HUD Are Meeting Their Legal Obligations Concerning Displacement

This section of the complaint cites at some length various Federal regulations governing the allocation and expenditure of Community Development and UDAG funds. In particular it cites legislation (PL 95-957 S 902, 42 USC 5313) and policy statements (HUD Displacement Report 1979) recognizing HUD's responsibility to minimize displacement where such funds are expended.

The City can and will show throughout this response that it fully meets these obligations through its housing and employment programs, and that Copley Place is in full compliance as a fundable project according to HUD selection criteria, particularly 24 CFR 570.457 (d) "The impact of the proposed program on the special problems of low- and moderate-income persons and minorities" and (h) "The impact of the project on the physical, fiscal or economic deterioration of the community." It should be noted for the record that the complainant has deemed not to address selection criteria (c) "The demonstrated performance of the applicant in carrying out housing and community development programs," (e) "The nature and extent of financial participation by private entities in the proposed project", and (i) "The extent to which the project represents a special or unique opportunity to meet local priority needs which are consistent with the objectives of economic revitalization or reclamation of neighborhoods", thereby conceding the project's fundability on the basis of these criteria. Selection criteria (j) "The feasibility of accomplishing the project in a timely fashion within the total resources which will be provided" is addressed in Part VII.

By awarding a UDAG to Boston for Copley Place, HUD will be fulfilling its mandate to revitalize inner-city commercial areas, expand long-term employment opportunities for area residents while physically displacing no one from the vacant site and creating minimal displacement in the surrounding area as projected by Economic Research Associates (ERA) for the Copley Place EIS.

A-3 City and HUD Policies Are Not the Cause of Displacement

This section of the complaint asserts that displacement has three (3) causes: (1) the private market, (2) Federal policy and (3) City policy.

1. Neighborhood revitalization is pictured by the complainant as a City-wide phenomenon which is happening at the expense of all low- and moderate-income residents. The complainant implies that the word revitalization is a deliberate euphemism for the widespread displacement of people.

Sweeping generalizations such as these needlessly confuse any understanding of the dynamics of neighborhood change. Since the end of World War Two, through the early seventies, the majority of Boston's neighborhoods have been in decline. For some areas, the decline was precipitous and traumatic. Boston's population declined markedly as disinvestments and abandonment were common in many neighborhoods. Few would argue that such a City-wide decline brought good fortune to anyone, particularly to minorities and the poor. HUD's preliminary findings on displacement, from the same report cited so often by the complainant, show irrefutably that disinvestment and abandonment are the largest causes of displacement in urban America.

To argue that the reversal of this trend, a reversal which has only just begun to take hold in many neighborhoods, is also deleterious to the same population which struggled through twenty-five years of decline, is to deny all of Boston's residents their aspirations to live in a better, safer and more attractive environment. By equating revitalization with displacement, the complainants are disregarding all the subtle factors at play which improve neighborhoods, while insulting the residents of those

very neighborhoods by insinuating that low- and moderate-income inhabitants are little more than passive victims unable or unwilling to control their lives or benefit from healthier, improved surroundings.

The City must point out that undertaking neighborhood improvements such as street repair, sidewalk reconstruction, new street lighting, and open space is done obviously, to improve neighborhoods. The City should not be forced to lower quality, or provide less attractive neighborhood improvements to areas which long demanded them simply because the complainant hypothesizes that such improvements contribute to displacement. The City cannot reasonably establish such a double standard where the poor receive less, because if their neighborhood becomes more attractive they may be displaced.

To state that "Copley Place will put coals on the already existing fire of displacement" neither proves a causative relationship, nor constructively addresses the issue by accurately describing the amount of displacement which might be occurring.

To characterize Boston's attitude as one showing "callous disregard" for problems in the impact area, or potential displacement caused by Copley, is to ignore the existence of approximately 6,200 units of recently constructed subsidized housing in the impact area sponsored by HUD and the City, of ERA's independent report on the expected housing impacts generated by Copley Place, and the ameliorating measures being actively pursued by the City described therein.

2. The complainant contends that there is a relationship between public improvement expenditures and the activity of market forces, and that because of this relationship, government has a responsibility to ameliorate some of the occasional, unforeseen negative consequences of this combination. On this point, the City finds no philosophical disagreement.

Cited as conclusive evidence of the negative effects of this public/private sector combination are total public expenditures in the impact area; the decline in the numbers of housing units in the area; demographic changes in age and race profiles; and an increase in real estate values. In summation, the complainant concludes that "public expenditures in the impact area since 1965 have caused this abhorrent situation".

Missing from this conclusion is any recognition that the City has aggressively addressed the problems arising from revitalization. Contained within the total public expenditures mentioned in the administrative complaint, are millions of dollars used to assemble parcels for over 6,200 assisted units in the surrounding neighborhoods. The City's record in providing housing opportunities for low- and moderate-income persons, contrary to the complainant's allegations, is an excellent one. It must be remembered that almost 20% of Boston's housing is subsidized under one program or another. There's no other major city in the country that comes anywhere near that percentage. Boston has approximately 21% of the population within its metropolitan region, but 44% of the total subsidized housing stock. Boston has less than 30% of the total metropolitan elderly subsidized housing supply but almost 60% of the total family inventory.

Although there have been some demographic shifts in age and race, it is hard to understand what significance or relevance these shifts have to Copley Place. Minority populations have increased in the Fenway and remained at approximately 50% in the South End. The increase in young adults is a national one, reflecting nothing more pernicious than the post World War II baby boom, and locally the high incidence of colleges and universities in and around the impact area. Rising real estate values stem from the artificially depressed values of the 1950's reflecting a 40 year stagnation in Boston's economy. These rising values have further accelerated during the steady inflation of the past decade.

If this overall situation is "abhorrent", it has somehow escaped the notice of most residents in the South End, the impact neighborhood with the highest percentage of long-term low- and moderate-income minority residents, the very group the complainants argue is most adversely effected. In 1978, the BRA commissioned Consensus, Inc. to undertake a demographic, attitudinal, and behavioral survey of over 1,000 South End households. Many of the attitudinal findings bear directly on this point.

South End residents are overwhelmingly optimistic about the likelihood of conditions improving in the neighborhood over the next few years. Fully 73% of the residents believe conditions will improve, while a mere 8% think they will worsen. The study found that "differences in the ratios of optimists to pessimists according to economic and social classification are ones of degree only. The proportion of South End optimists heavily outweighs pessimists across socio-economic boundary lines."

Among ethnic groups, Blacks tend to be the most optimistic with 79% indicating conditions in the neighborhood will improve, 6 percentage points above the area-wide norm. Interestingly, 10% of the Whites surveyed think conditions are worsening, whereas only half as many Blacks responded that way.

Similar results are found where respondents are questioned about their preferred location of residence:

"High income South Enders are as likely to remain in the neighborhood as those in the lower income categories. Black, Caucasian and Hispanic residents are about equally committed to the South End. It is only among the younger segment of the population that any substantial desire to leave the neighborhood is expressed..."

When residents were asked an open ended question about dissatisfaction concerning life in their neighborhood, crime and dirty streets (litter and garbage) tallied the most frequent voluntary responses at 31% and 24% respectively. Displacement as an issue was articulated by only 3% of the population.

Finally, 78% of South End residents surveyed indicated a desire to see urban renewal continue in the neighborhood. Only 8% thought it should cease. The complainants repeatedly assert that the financially disadvantaged and minorities are ill served by such public expenditures. Consensus, however, found this expectation chiefly among some affluent residents:

"Opposition to the continuation of urban renewal in the South End occurs in small but significant concentrations among upper income and Caucasian residents of the neighborhood."

These are the very people whom the complainant argues are benefitting at the expense of minorities and the poor.

The effort here is not to deny legitimate concerns about displacement, but rather to put in some perspective the attitudes of citizens in an affected community. A conscious public policy effort undertaken by HUD and the City to revitalize a neighborhood may be characterized by the complainant as "abhorrent," but if such a judgement is not shared by the majority of people affected by the public action, then that public policy can be reasonably defended as both appropriate and proper.

An additional theme is advanced by the complainant in this section; that the City undertook various public improvements and offered financial incentives such as Sec. 312 loans to satisfy demands by newcomers to the area. This ignores the fact that the genesis for these improvements lay with the declaration of the Fenway, South End and Bay Village as Urban Renewal Areas in the early 1960's. In order for a neighborhood to be so declared, it had to evidence substantial blight and decay. The respective Urban Renewal Plans predate any substantial influx of newcomers, and clearly delineate a program of public improvements and financial aid.

The record shows, in fact, that minorities have been the beneficiaries of urban renewal in proportion to the demographic profile of the neighborhood. Of the 327 parcels in the South End which have been conveyed or designated pending conveyance for instance, 200, or 61% have gone to minorities. Since 1975, over one-third of the Section 312 rehabilitation loans have been granted to minority-owner occupants. This figure jumps to over 50% when female head of household is added to the category. Any conclusion that the City cynically perpetrated these programs for newcomers at the expense of long-time residents is totally unfounded.

3. This section summarizes and interprets recent trends in South End housing costs and types by describing the decline of lodging house units during the renewal years which supported a large population of single working people and the elderly. It is true that lodging houses as a form of shelter have been declining in numbers over recent years. Before the establishment of the Department of Housing and Urban Development with its arsenal of weapons to promote large numbers of assisted developments, lodging houses constituted urban America's largest inventory of low-income housing. Lodging houses acted as a private market solution filling the void of non-existent government programs.

The inhabitants of rental rooms, usually paid for by the week, tended to be young singles, usually males, starting-out in life prior to marrying and forming households; or often the elderly retirees, widowers, pensioners or others in some form of transition. Even under the best circumstances, lodging houses were seldom thought of as permanent domiciles, and were often stigmatized in the mind of the general public with unsavory associ-

ations. Physically, many rooming houses were apparently nearing the end of their economic life, marred by deferred maintenance and increased physical deterioration.

It should come as no surprise, then, that when thousands of units of government-assisted housing for the elderly were constructed in the impact area, lodging houses lost even more of their strained economic vitality. Strong code enforcement and an aggressive housing court made poorly-maintained lodging houses even less desirable to own and operate. At the same time, the neighborhood continues to attract large numbers of young single adults as it always has. It is socially acceptable and economically beneficial for young adults to share living quarters in an apartment. Few young singles would find lodging houses a socially desirable alternative.

Likewise, the decline of the lodging house in the South End is not related to a decline in family units in the South End. In fact, the large number of assisted family units produced through urban renewal has led to an increase in low- and moderate-income families in the South End.

By the complainant's own description, these trends are events which have already taken place. What connection with, or relevance to, a Copley Place UDAG submission is never stated or made clear.

A4 Copley Place Is Not Causing Displacement

This section states that Copley Place will cause displacement in surrounding neighborhoods by increasing the phenomenon known as gentrification. As evidence for this, a Boston Globe condominium advertisement describing proximity to the proposed development is quoted. Clearly, since Copley Place remains on the drawing boards, with UDAG approval still uncertain, Copley Place alone cannot be the basis for this condominium conversion.

The only evidence tying this conversion to Copley Place is a locational reference in a newspaper advertisement. Given the increasing popularity of condominiums as a housing choice; and the steady development of similar condominiums in the area over the past 10 years; there appears to be no valid cause and effect relationship between the Copley Place proposal and on-going condominium conversions.

Without knowing what the building was before conversion, any statements alleging displacement can only be judged as sheer speculation or guess work. Much evidence exists, in fact, to show that the majority of condominium conversions in the South End have been previously uninhabited buildings or market level apartments from which no economically disadvantaged persons have been displaced.

More importantly, however, the City does not deny that Copley Place may cause some displacement. As part of the citizen review process and environmental process, the City commissioned Economic Research Associates (ERA), to conduct a full and detailed housing impact analysis which would measure housing trends in the area, and specifically calculate; to the extent possible, any increase in demand caused by Copley Place. ERA's Housing Impact Study

calculates this demand, fewer than 1,000 units over a 5-year span, and concludes that it will be modest in terms of the existing supply. On the basis of this well documented study, the City is confident that its housing policy is more than adequate to offset this modest increase in direct demand attributable to Copley Place.

The conclusions of the ERA study do not take into account an expanding housing supply comprising 2,350 new units of assisted and market-rate anticipated during the next five years in the impact area.

While the complainant does not dispute the data contained in the Housing Impact Study, it strongly disputes its assumptions and consequent findings:

The first assumption the complainant faults is the boundary of the impact area. Professional judgement, combined with concern expressed by neighborhood residents during the course of the citizen review process were the primary criteria for determining the boundary of the impact area. The rationale was that the most focused housing impact would occur in the areas (1) where a worker employed in the development could comfortably walk to work, or (2) where someone, induced to live in the area, could comfortably walk to the project for shopping or entertainment. Beyond the 15 minute walking distance the housing demand generated by the project would disperse rapidly as one's criteria to live close to the project would be outweighed by other housing preference criteria such as cost or neighborhood quality.

The complainant then charges that, because the Environmental Impact Statement found that greater amounts of direct demand would be dispersed to other neighborhoods where shelter costs were more commensurate with the earning power of Copley Place employees, the EIS and UDAG applications are inadequate because no measure was made of this dispersal of demand.

The important point to realize is that this dispersal of demand was an unforeseen finding of the study, not an a priori assumption which would invalidate the initial assumptions defining impact area, or the methodology employed to measure it.

Further, because the public transit corridors radiate spoke-like from the inner-city, usually reaching beyond the municipal boundaries of Boston, any direct demand generated by any single development will of necessity be highly diffused, impossible to measure in an isolated area, and statistically miniscule given the total number of housing units in the metropolitan region. Even in a worst case situation where every one of the 6,000 permanent employees were to move into the metropolitan area from outside the SMSA, those 6,000 households would only be a tiny fraction of the households in the metropolitan region, and would, therefore, exert only minimal demand when dispersed throughout the area.

The complainant also finds fault with the conclusion that a considerably smaller number of Copley Place employees are likely to live within walking distance of the development than did so when the Prudential Center opened. To argue otherwise, as the authors in fact do, is to ignore the very different economic and historical context in which Copley Place will be developed.

At the time Prudential opened, the surrounding neighborhoods such as Fenway, St. Botolph and the South End were relatively depressed, and therefore offered many comparatively inexpensive housing options. These neighborhoods have matured greatly over the past 15 years, as we have seen, and there are correspondingly fewer shelter opportunities commensurate with the earning power of the typical Copley Place employee.

It is reasonable and proper, therefore, to anticipate a lower demand from Copley Place than Prudential due to existing economic conditions in the area. Critical to understanding housing dynamics, is realizing that housing supply is not reduced by someone who merely desires a unit but cannot afford it. Meaningful demand is exerted only by persons who can afford the unit as well as desire it.

Rather than make a case that the City is underestimating potential demand, it is possible to argue that demand may be less than the City projects, if more than half of the permanent jobs were to go to the City residents. Workers who already live within the City will be much less likely to uproot themselves and their families than workers who must commute greater and more costly distances from beyond the municipal boundary. The permanent jobs hiring goal from surrounding neighborhoods has been set at 17.2%. Unemployment rates are high in these neighborhoods, and there exists a large labor pool of residents who could fill the types of permanent jobs Copley Place will be creating. If, in fact, this hiring goal can be exceeded, then the projected direct demand in the area resulting from Copley will likely be less, not greater, than the City previously anticipated.

The complainant also took issue with the timing of the housing impacts. This timing will not occur chiefly in a 14-month period as the authors contend, because the project is currently expected to take 2 to 3 years for full occupancy to occur and stabilize. Many people will wait to see if they like their new job before moving. The general shortage of vacant units and their relatively high price will further encourage people to be sure before they move.

The complainant argues that the City has failed to take into consideration the turnover rates among existing housing in the impact area. It would appear the authors do not understand the relationship of turnover to Copley Place. Turnover simply means the exchange of one household for another. The City, through its consultant, tried to measure additional demand for housing attributable to Copley Place. There are nearly 28,000 housing units in the impact area. An estimated turnover rate of 15% would mean that 4,200 units become available every year. A large portion, if not all, of the annual demand of approximately 200 units/year could be absorbed by this natural turnover.

Another dissatisfaction the complainant has with the development is the perception that it will cause widespread conversion of residential property to commercial property, and thus, reduce the housing supply. The complainant offers no evidence of this phenomenon actually happening; although the opposite conversion trend is evident in the impact area such as the conversion of the Perkins School to condominiums. Instead, it would appear that, because there is already a significant amount of either vacant or under-utilized commercial property in the impact area (particularly in the South End

and Fenway), no conversion of residential to commercial will occur. The Revised Copley Place Retail Impact Analysis (January, 1980) found that the project would create an extremely limited demand for commercial space in the South End and states on page 40:

"The most likely impact on South End retailing will be the possibility of generating some convenience goods facilities along Dartmouth Street or near Columbus Avenue and Dartmouth Street. These facilities will probably relate more to the needs of South End resident employee pedestrians and will probably be of such small magnitude that it will be difficult to identify the development as the effect of Copley Place. The probable impacts of Copley Place on South End retailing are not a magnitude which could create an identifiable change on retail rents or retail operations in the South End".

The complainant repeatedly raises objections to the granting of a Copley Place UDAG based on the impact the development will have upon census tracts 707 and 708. This sub-area contains a high percentage of long-term minority residents, many of them homeowners. It is situated along the old Penn Central rail corridor in the South End from Massachusetts Ave. to the Copley Place site, and remains one of the more stable sub-neighborhoods in the South End.

The rail corridor and the deteriorated condition of Columbus Avenue, which together encompass ninety percent of this area's perimeter, have generated a strongly negative economic, environmental and aesthetic effect upon the area. These major blighting influences are about to be eliminated, however, by the complete reconstruction and landscaping of Columbus Avenue, and the decking over of the rail corridor with a landscaped linear pedestrian park.

It is these improvements, combined with other forces at work in the neighborhood, not Copley Place, which will exert pressure on the demand for housing in this sub-area. By describing Copley Place as the causative agent in heating up demand, the complainant seriously misunderstands the Housing Impact Study conclusions, and ignores major changes about to take place within the census tracts themselves.

This misinterpretation is quickly followed by an inaccurate explanation for a recent delay in the development of the Tent City site. It is true that in accordance with the terms of the South End Urban Renewal Plan, approved by the City, State and Federal government, the BRA planned the acquisition of this site and that that proviso is still in full force and effect. However, the family which owns the majority of the site expressed a desire to develop mixed-income housing there in accordance with the Urban Renewal Plan, and jointly promulgated community and BRA guidelines. It would be inappropriate to undertake an eminent domain proceeding until the public agency has exhausted efforts to get the area redeveloped in accordance with the Plan without utilizing the extraordinary powers of the sovereign government. The owner has the desire and ability to undertake redevelopment in accordance with the Urban Renewal Plan, and has been working cooperatively with community sponsored interests to insure the desired development.

The complainant's disregard for historical accuracy reveals itself again in the exaggerated claim that "many of the 200 low- and middle-income households

(living in the Tent City site) displaced twelve years ago by urban renewal have not been resettled in their old neighborhoods". BRA Family Relocation records show that only 29 households, not 200, were displaced by urban renewal from this site. Of these, 10 remained in the South End, 8 of whom moved into assisted housing. Seven other families were relocated in other parts of Boston. Of this group, two purchased homes with their relocation proceeds, 3 moved into assisted housing, and 2 rented privately. Five families left Boston altogether, 3 moving to the suburbs and 2 electing to return to relatives in the South. For the remaining 7 cases, no information is available because they failed or refused to cooperate with relocation case workers.

In all, 2,779 families have been eligible for relocation benefits as a result of urban renewal activities in the South End during the past 14 years. Of those for whom completed records exist (2,270 households), 88% have been relocated within the City of Boston, 50% within the South End alone. Almost one-third of this completed base found permanent shelter in assisted housing. In the South End, 97.6% of the relocation has been accomplished. Only 10 families are still in need of relocation and only 67 cases remain open. Similarly in the Fenway, 94% of the relocation had been accomplished by the beginning of 1978 with fewer than 70 households needing relocation since then. There are only 2 Fenway households currently needing relocation.

A5 Displacement, Turnover and Demographic Patterns

This section purports to discuss what is happening in the South End by recounting four case studies from Greater Boston Legal Services files. No proof is offered to link these cases to Copley Place. This linkage, as is so often the case in this Complaint, is merely assumed. It is further assumed that these cases are typical, but no empirical data is offered to substantiate this claim.

There is no way this response can judge the validity or accuracy of these descriptions, but it is germane to put in perspective the changes in the South Ends' demographics over the recent past. It is concern over these changes, after all, which underlie every discussion of displacement.

It is not enough to merely understand the forces at work in a changing community, it is necessary as well, to understand how communities change when these forces are not present. Is there an element of inevitable change which occurs regardless of the particular and specific set of cultural, economic, and sociological forces affecting a community? If there is, and if this inevitable or natural demographic change can be found and measured; it should greatly clarify any discussion of how much turnover can be attributed to involuntary displacement.

The following discussion attempts to understand what has been happening in the South End during the past few years by examining the length of residency of different populations, and comparing them to established behavioral patterns for other groups and in other periods in history.

During the period from 1950-1965 the South End was one of Boston's most congested and physically deteriorated neighborhoods. Ample documentation exists to show that the South End, prior to Urban Renewal, was one of

Boston's most troubled neighborhoods. It was a neighborhood in genuine jeopardy, manifesting the worst ills of urban decline. It housed a growing skid-row population. The pattern of disinvestments, abandonment, fire and demolition repeated itself on nearly every block. In many outsider's eyes, the South End was little more than a blighted derelict neighborhood in which, given alternatives, few would choose to live. (cf documentation submitted to HUD qualifying the South End as an Urban Renewal Area.)

During this same period, an unprecedented boom in housing starts was underway in many of the suburbs ringing Boston. Ironically, and unfortunately for Boston, this dramatic upsurge in housing starts coincided with a sharp decline in the number of Americans reaching the traditional first-time home-buying age of 25-30 years old, an aftermath of the depression and war years. The results were inevitable, but not foreseen. Tens of thousands of Boston residents, many armed with newly-earned college degrees (paid for with G.I. Bill grants), bought inexpensive, favorably financed, suburban tract homes. Facing a plentiful supply of new suburban housing and relatively low demand caused by an earlier dip in the national birth rate, less desirable inner-city neighborhoods suffered huge losses in population. The South End alone lost over 22,000 residents from 1950-1960, a period during which urban renewal and gentrification played no part.

Not until the middle 1960's would this trend reverse itself. By then housing starts were beginning to fall; the leading edge of the baby boom generation was beginning to exert itself in the market place; Boston's economy had ended a 40-year decline in loss of jobs and industry with the revival of office and service sector jobs. Not only were young adults staying in Boston after graduating from college, but for the first time, Boston's minority population began to catch up with other comparable northern cities, spurred on by the City's expanding job market and the relaxation of the immigration laws of 1966 governing the quotas for various third-world and non-English speaking immigrants.

This historical setting has great relevance to what happened in the South End during the last 15 years. Close analysis suggests that much of what is perceived to be displacement might be something else altogether. Implicit in nearly all discussions of displacement is the notion of one class or racial group replacing another less advantaged one. This didn't happen during the 1950's since there was clearly no replacement population.

There is mounting evidence in the South End (and similar evidence for the Fenway) that rather than one homogenous replacement population competing with existing residents for the available housing units, a number of different classes and racial groups may be entering the neighborhood's housing market simultaneously, and in competition with one another.

The recent Consensus Survey (1978) has revealed some startling facts about South End residents regardless of race or economic standing. During a five-year period, from 1973-1978, 43% of the adults surveyed, moved into the neighborhood. The breakdown by racial group is as follows:

Blacks:	33%	
Hispanics:	36%	Total South End: 43%
Whites:	52%	

If the period from 1969-1978 is examined, a period during which the complainants contend displacement has been great, if not unprecedented; we find that more than half the current residents are newcomers, and that the percentages are spread more or less evenly among the three racial groups:

Blacks:	47%	
Hispanics:	57%	Total South End: 57%
Whites:	65%	

This means that one-half the existing minority residents are new arrivals in the neighborhood. Since minorities make up 54% of the South End, fully one-quarter or more of the total population are newly-arrived minorities and approximately 30% of total population are newly-arrived whites. Under these circumstances it becomes virtually impossible to know who is being displaced by whom, and when.

This may appear confusing, but it wouldn't be particularly surprising or alarming if we better understand historical patterns associated with urban demographics. Stephen Therstrom's exhaustive study: "The Other Bostonians, Poverty and Progress in the American Metropolis 1880-1970" demonstrates conclusively that city populations are remarkably fluid and constantly changing. Describing just one decade during the late 19th century with a lower than normal rate of turnover, he writes:

"Although conventional methods of calculating net migration yielded results that suggested the City's population was changing very sluggishly, new techniques for estimating gross flows into and out of the community indicated that the contrary was the case. The actual movement into Boston during the 1880's was approximately twelve times larger than the estimated net in-migration because huge numbers of people were leaving the City at the same time huge numbers of people were entering it."

One of the techniques Therstrom uses to measure levels of population turnover is the "decadal rate of persistence" for adults. Statistics exist which show what percentage of population remains in the same city through a 10-year span. This information exists for Boston for seven random decadal intervals going back to 1830. The findings for Boston follow:

DECADAL INTERVAL	PERSISTENCE RATE FOR ADULT MALES
1830 - 1840	44%
1840 - 1850	39%
1850 - 1860	39%
1880 - 1890	64%
1910 - 1920	41%
1930 - 1940	59%
1958 - 1968	46%

In a comparison with other New England and American cities, Thernstrom found that in three-quarters of all cases the 10-year persistence rate was in the 40-60 percent range. Thus, in most cities, the population naturally changes by at least 40-60% every ten years. Since there is no way of measuring those who come in for shorter periods and then leave, this 40-60% is a minimal measure of actual change. There are studies which suggest that 20% of the population moves every year. Theoretically, a neighborhood's population could be entirely replaced every five years. While some residents obviously remain, many units may turnover several times during a ten-year period.

An examination of the Consensus Survey results show that the South End population behaved similarly during the past 15 years. The persistence factor for the nine-year period cited earlier (1969-78) is 43%. This suggests that the population turnover in the South End may not be that unusual after all. Thernstrom concludes as much:

"High rates of population movement in the United States were not a product of the automobile age, nor even the industrial age... The migratory impulse seems to have been surprisingly strong and uniform over a period of almost 170 years. "

Thernstrom's findings and the results of the Consensus Survey bear out the City's contention that what is commonly labelled displacement is a poorly understood and highly elusive issue at best. If as much as 60% of a neighborhood can reasonably be expected to turnover under non-gentrifying circumstances, public officials must be exceedingly careful to distinguish genuine involuntary displacement from natural voluntary movement. Even when one can identify a displacee with some certainty, knowing the cause of this event or motivation of the displacer may be virtually impossible.

This, of course, is precisely what the complainant pretends to know. It is their necessary conviction that Copley Place will be the primary agent of displacement which enables it to argue so narrowly and single-mindedly against the UDAG application, despite the existence of abundant empirical and historical data which contradicts their hypothesis.

A6 The City's Policies and Strategies Demonstrate Concern for Housing the Economically Disadvantaged

The complainant argues in this section that the City's policies and strategies show a lack of concern for the problem of housing persons of low- and moderate-income in the impact neighborhoods. Rather than acknowledge the extraordinary amount of existing assisted housing sponsored and built under urban renewal, the complainant would have the reader believe that low-income residents are an endangered species in the South End.

Even a cursory examination of the City's housing accomplishments over the past few years shows this charge to be without evidence or credibility. Since the inception of urban renewal in the Fenway and South End, 5,712 units of low- and moderate-income housing have been built or substantially rehabbed. In the South End alone, 38% of the existing housing stock is assisted, by far the highest percentage of any neighborhood in the City. HUD itself has stated that when 40% or more of a neighborhood's housing is assisted, then that neighborhood is in fact "impacted". Not only has the City been extremely

conscientious and responsive in providing for the long-term housing needs of low-income residents of the impact area; but by doing so, the City's policies and programs guarantee that there will be a "floor" on the number of units available for such residents who wish to remain in the area. The establishment of this floor guarantees that Copley Place's neighbors will never be subject to wholesale gentrification of the kind witnessed in the Georgetown section of Washington, D.C.

Knowing that the problem of housing low- and moderate-income families and elderly continues, the City has continued to aggressively support responsible development proposals which address the need for affordable housing. To the extent the City has used federal programs in the past to make such proposals a reality, it will continue to do so in the future as such programs become available. Obviously, it is impossible for the City to make binding commitments to generate a specified number and type of housing units when it completely lacks control over funding sources and program regulations.

The assisted units coming on line are the product of the initiatives Boston has taken over the last few years to respond to low- and moderate-income needs in the impact area. The following is a summary of housing development and strategies by neighborhood:

PROPOSED SUBSIDIZED HOUSING FOR THE FENWAY

<u>PROJECT</u>	<u>UNITS</u>	<u>TYPE</u>
Hemenway Apartments	183	Section 8 Elderly/Family
St. Botolph Terrace	52	Section 8 Family
66 The Fenway	32	Section 8 Family
Symphony Area Renn. Inc.	20	Section 312 Family
Westland Avenue Assoc.	101	Section 8 Elderly/Family
Wait Street Associates	<u>107</u>	Section 8 Elderly/Family
Total:	495	

PROPOSED MARKET HOUSING FOR THE FENWAY

<u>DEVELOPMENT</u>	<u>UNITS</u>	<u>TYPE</u>
The Greenhouse	306	Market Rental
Perkins School	<u>16</u>	Market Condominiums
Total:	322	
Total Proposed Fenway:	817 Units	

The Fenway alone has the capacity to absorb over 75% of the anticipated new demand for the entire impact area.

Some initiatives undertaken by the City, community groups and individuals to insure existing residents' stake in the Fenway future, include:

- o The recently approved Westland Avenue UDAG for 101 units of mixed-income housing.
- o Moderate-income based 312 rehab of vacant properties on Symphony Road.
- o An exterior code enforcement program for large, multi-unit buildings.
- o 53 unit family and elderly rehab of vacant BRA owned buildings on Massachusetts Avenue.
- o Over 100 units of family Section 8 being rehabbed on vacant tax title buildings.
- o The formation of a co-op comprised of existing tenants for the purchase of their 12 unit apartment building.
- o Rehab of commercial block with participation and protection of existing merchants (through long-term leases at below market rents).
- o 312 Loan to new owner-occupants of formerly vacant and/or institutional properties.

PROPOSED SUBSIDIZED DEVELOPMENT FOR THE SOUTH END

Viviendas la Victoria II	207 units
Frankie O'Day Co-op	27
T.D.C. Co-op	100
Scattered Site	115
Tent City	202
East Canton St.	80
Neighborhood Strategy Area	
Robert Fortes House	<u>40</u>
Total:	771 Units

The South End will have the capacity to absorb 75% of the anticipated new demand for the entire impact area.

City strategies to stabilize South End housing stock:

- o Continuation of support for up to 25% subsidies on new rental developments.
- o Active solicitation of innovative proposals for below market home-ownership opportunities in cooperative or condominium form in remaining BRA owned surplus residential properties.
- o Encourage new market level construction to increase supply, thereby lessening conversion demand on existing below market units.

A summary of proposed market level development in the impact area follows:

PROPOSED MARKET RATE HOUSING IN THE IMPACT NEIGHBORHOOD

<u>PROJECT</u>	<u>UNITS</u>	<u>TYPE</u>
Exeter Towers II	97	Rental
Ritz-Carlton	54	Condominiums
Greenhouse*	306	Rental
Copley Place	75-113	Rental/Condominiums
Perkins School*	16	Condominiums
Lister Medical Building	36	Rental
Tent City	70	Rental/Cooperative
Estimated Adaptive Reuse	<u>84</u>	Rental/Condominiums

Total: 738 / 776 Units

The total number of subsidized units (including an additional 25 units in Copley Place and 269 Section 8 Elderly in South Cove) comes to more than 1,550 units. Combined with the proposed market level units, the total approximates 2,300 units in the impact area.

These developments reveal the evolution of Boston's response to low- and moderate-income housing needs in the area. Some of the oldest in terms of planning are those being developed on urban renewal parcels. Like Viviendas La Victoria II and Bradford Towers, they are fairly conventional subsidized housing projects. Some of the others, such as TDC and Frankie O'Day, reflect a growing recognition that ownership is a key ingredient in stabilizing the housing population in the area. The newest project, developed since the local approval of Copley Place, is Boston's proposed East Canton Street Neighborhood Strategy Area development. This is a direct anti-displacement effort aimed at retaining existing low-income residents in their present building in the South End. This application was filed with HUD in April, 1980. As of this writing, the application has yet to leave the HUD Area Office.

While these subsidized units were, for the most part, envisioned in prior years as the Administrative Complaint points out, it is important to realize that they are not being built to meet the existing workload of displacees from urban renewal projects. The current number of families in need of, or eligible for, relocation as a result of public sector action is virtually nil. Families actually remaining on the relocation caseload number ten (10) in the South End and two (2) in the Fenway. The significance of this lies in its relationship to the nearly 1,550 units of subsidized housing coming on line in the impact neighborhoods. These units which the critics of Copley Place claim are needed to house urban renewal displacees will, in fact, be fully available virtually to families which might be dislocated by the direct demand generated by Copley Place and the other factors cited earlier in this response.

The units then will be available for potentially displaced residents at precisely the time they will be needed in the impact area. They will have the capacity to absorb the entire anticipated direct demand (much of which is market rate in any case) generated by Copley Place, as well as a significant number of families which may be affected by induced demand, whatever the cause. With

* Note: Also mentioned under Market Housing for the Fenway.

the completion of these units, the opportunity for major new initiatives to provide further assisted units will have passed. Not only is there no remaining large inventory of properties and land, but conventional definitions of over-concentration of subsidized housing would preclude further major new projects involving 100% rental subsidies in neighborhoods like the South End where nearly 40% of existing housing is assisted. (As previously noted, subsidized concentrations of 40% or more constitute HUD definition of an "impacted" neighborhood.)

In summary then, the City's policy represents a long standing commitment to provide a wide choice of affordable housing opportunities for residents of the impact area. Precisely because many of these units have been in planning for a number of years, Boston will have a substantial number of assisted units coming on line in the next few years, whose timing will coincide with the opening of Copley Place and be available during the period of potential displacement.

The challenge will be to develop fair and enforceable tenant selection criteria which will insure that new, as well as existing assisted units will be available first to needy displacees from the area; rather than newly-arrived persons which might otherwise meet the financial criteria for selection.

The complainant is highly critical of the City's efforts to afford protection to needy tenants subject to condominium conversion. Only one neighborhood in the impact area has a large enough number of conversions during the past twelve years from which valid conclusions can be drawn. A recent BRA study of the Back Bay and Beacon Hill (a similar adjacent neighborhood) found the following changes occurred to the housing stock over the decade of the 70's largely due to conversion and development of condominiums:

- a. the total number of housing units was increased by 2% (250 units) as a result of recycling dormitories and institution uses; and
- b. the percent of owner-occupancy increased from 6% in 1970 to 16% in 1979 as a result of condo conversions. The actual percent of owner-occupied buildings is probably closer to 20%, reflecting the fact that, during the same period, some absentee owned rental properties were sold to individuals who maintain some rental units while occupying a portion of the building themselves.

The corresponding population changes that occurred during the decade of the seventies can be separated into two categories: (1) changes within individual buildings following conversion; and (2) overall neighborhood changes during the same period. A BRA survey indicated that, on average over the decade, 25-28 percent of the condo owners in the Back Bay and Beacon Hill lived in their units prior to purchase. The combined results of these surveys show that conversions have not replaced one population with another as much as they have resulted in existing renters becoming homeowners.

Since a number of existing residents purchased their units and even more came from the immediate neighborhood, it can be reasoned that condo conversions have served as a vehicle to retain a population which otherwise and previously would have moved away. This rather positive phenomenon is quite different than one permanent population replacing another, as implied by the complainants.

The complainant asserts that two categories of existing housing are presently exempt from condominium conversion ordinances: (1) assisted housing built or substantially rehabbed since January 1, 1972, and (2) private market housing built or substantially rehabbed since January 1, 1968. City ordinances don't include assisted housing because strong Federal legislation does protect them. City ordinances concerning conversions are designed to protect low-income families, the elderly and the handicapped. Privately owned, substantially rehabilitated units in the impact area are, of economic necessity, renting at market level and therefore not housing a population in need of protection. In fact, as the discussion of the Back Bay has shown, many of these tenants possess the financial means to purchase their apartment, and do so.

Regardless of the merits of the City's ordinances on this matter, condominium conversions are a fact of life in relatively few Boston neighborhoods. The primary causes have already been discussed, such as the maturation of the baby boom generation, as well as favorable Federal income tax incentives, and a persistently inflationary economy which mandates homeownership as a means of economic benefit. If Copley Place had never been contemplated, condominiums would have still occurred as a natural part of the evolution of the City's economic life.

When the structure of the Internal Revenue Code removes all incentives to own rental housing and at the same time pushes everybody with financial ability to change from renter to owner, there is little that local government can do to preserve moderate rental, private market housing. If the proponents of additional housing for moderate-income people are to be effective in their campaign, they must change, fundamentally, the way housing is owned, built and supplied. Those changes cannot occur at the local government level, for they imply a fundamental change in the free market system allocation of housing. This is not to say that the City agrees or disagrees with this position. It is to say, however, that local government cannot solve the problem the way the issue is raised in this Administrative Complaint.

In a similar way, the complainant's discussion of rent control misses the point. Rent Control, as it is administered by the City, protects people from displacement caused by sudden and unreasonable increases in their rent. As long as residents remain in their unit, they are protected and cannot be arbitrarily displaced.

It is true that if they move, they will not find another rent controlled unit. This, however, is not displacement. To move oneself from under the protective umbrella of rent control is a voluntary action. Copley Place will have no effect on those who wish to remain in their controlled apartments.

It should be noted that the City lost in its attempt to extend rent control over federally-assisted subsidized housing. The courts ruled that the Federal Government's right to set rents in these developments pre-empted the City's Rental Control Ordinance. The City's condominium conversion ordinance is similarly pre-empted since it draws its power from the existing rent control ordinance.

In its summation, the complainant repeats the litany of negative impacts which it imagines Copley Place will visit upon the surrounding neighborhoods. Missing, as it had been throughout the complainant's analysis, is any recog-

dition that 6,000 permanent jobs, 50% of which are intended for Boston residents, and 17.2% for impact area residents, will provide low- and moderate-income people some measure of control over their lives and housing choices.

Missing is any recognition of the ameliorative effect of producing 2,300 units of new housing in the vicinity of Copley Place over the next five years. Missing is any acknowledgement of the stabilizing effect more than 6,000 new units of assisted housing has had in the impact area during the last fifteen years.

The complainant's views, however, are not shared by the residents of at least one adjacent neighborhood. When the Consensus Survey (1978) queried over 1,000 South End respondents on levels of support for thirteen policy and programmatic categories, they ranked rehabilitation of existing housing first, and job development for neighborhood residents second, by one percentage point. Far down the list, in eleventh and twelfth places respectively, these respondents rank more subsidized housing and construction of new housing. It would appear that the neighborhood has a quite different sense about its own priorities. It knows that community revitalization and economic development are complimentary, not antagonistic, goals.

It is the public sector's responsibility, first and foremost, to understand the dynamics of neighborhood change, and then to formulate solutions. Boston acknowledges that some displacement is occurring and has occurred. Over recent years consequently, the City has pursued a number of policies to combat it and protect its less well-advantaged citizens. The various tools used by the City include a resident employment policy, targeting assisted housing for low- and moderate-income families and the elderly, establishment of innovative sweat-equity and homesteading programs and enactment of regulations governing condominium conversion.

HUD's responsibility regarding this application is to weigh the likely affect of the UDAG's approval upon the commercial vitality and social fabric of Boston's inner-City. If HUD determines, as the City believes it should, that its approval will fulfill its legislative mandate to revitalize urban areas while paying special heed to expanding economic opportunities to low- and moderate-income residents, especially minorities, then this Administrative Complaint can be judged in the proper perspective as an impassioned polemic which clouds, rather than illuminates the admittedly difficult issues surrounding neighborhood revitalization and displacement.

B. THE JOBS POLICY IS EXEMPLARY AND WILL BENEFIT LOW-INCOME PEOPLE AND MINORITIES.

The Copley Place Employment Plan is a significant accomplishment.

This plan is a unique example of how a city can create jobs through economic development and arrive at a consensus on how those jobs can be shared by all of its residents. The commitment of hundreds of individuals from diverse backgrounds and interest working for over two years to develop this plan is no small accomplishment. The Mayor of Boston took many of the goals outlined by the Citizens Review Committee and made those goals a reality in the UDAG application.

The City of Boston has assembled at Copley Place more opportunity for minorities and low-income people through a \$19 million Minority Business Enterprise set aside and specific employment criteria in construction and permanent employment than any other UDAG-assisted economic development project in history.

Contrary to the assertions of the complainant, the procedures to be followed during construction are not a set of vague goals but a set of specific standards that must be followed as a requirement of all construction contracts.

During construction all work performed must meet the following manpower requirements: 50% Boston residents, 25% minorities and 10% women. In fact, there is a burden cast upon each contractor to meet the percentage goals set forth in Schedules A and B or, if unable to meet those goals, to detail all efforts that have been taken to meet the goals, which efforts shall require "every reasonably possible measure" to achieve compliance (Schedule A, Paragraph V.2(b); Schedule B, Paragraph VII.B.(1)). In the event that a contractor is believed to be in non-compliance by either the Compliance Officer or the Liaison Committee, the contractor is required to present evidence to the Massachusetts Commission Against Discrimination and in the case of residency to an arbitration panel showing why they have been unable to comply with the requirements. The arbitration panel will consist of one person selected by the charged party, one person selected by the City and one person agreed upon by both parties. A hearing will be conducted by MCAD and in the case of residency by the Arbitration Panel under the procedures approved by the American Arbitration Association. If the panel finds the contractor in non-compliance, the developer must impose one of the following sanctions:

Within fourteen days of receipt of finding, the developer shall move to impose one or more of the following sanctions as the developer deems appropriate:

- a. The recovery from the General Contractor of 1/100 of 1% of the contract award price or \$1,000 whichever sum is greater, in the nature of liquidated damages or, if a subcontractor is in non-compliance, the recovery from the General Contractor, to be assessed by the General Contractor as a back charge against the Subcontractors, of 1/10 of 1% of the subcontract price, or \$400, whichever sum is greater, in the nature of liquidated damages, for each week that such party fails or refuses to comply:

- b. The suspension of any payment or part thereof due under the contract until such times as the General Contractor or Subcontractor, as the case may be, is able to demonstrate its compliance with the terms of this contract;
- c. The termination, or cancellation, of the contract, in whole or in part, unless the General Contractor or Subcontractor, as the case may be, is able to demonstrate within a specified time, its compliance with the terms of this contract;
- d. The retention in connection with final payment or final acceptance of any payment or part thereof due under the contract, where the General Contractor or Subcontractor, as the case may be, has been unable to demonstrate compliance with the terms of the contract.

The Liaison Committee was organized for the monitoring of provisions in the lease between U.I.D.C. and the Turnpike Authority. The City paralleled its employment agreements with the monitoring provisions of the lease while strengthening requirements for employment. Liaison Committee meetings are open to the public and all relevant information will be available to members of the Liaison Committee.

The complainant alleges that some members of the Liaison Committee do not represent the needs of minorities and neighborhood residents. The City believes that the Contractor's Association of Boston, an organization established by minority contractors to increase minority participation in the construction industry, along with the Southwest Corridor Land Development Coalition, Inc., Women in Construction and Third World Jobs Clearinghouse do represent constituencies that Copley Place will directly benefit. The City also believes that the role played by the MCAD on the Liaison Committee and as a compliance body in review of compliance violations during construction will protect the rights of minorities and women.

The Employment and Economic Policy Administration (EEPA) has the responsibility to administer all CETA funds expended in the City of Boston and will be the lead agency for the implementation of the employment plan. EEPA will not be the only agency that will be making job referrals for Copley Place, however. As the local Prime Sponsor for CETA programs, EEPA sub-contracts out 85% of its training funds to community-based organizations (CBO). This year EEPA awarded contracts to fifteen community-based organizations such as OIC, ABCD and Third World Jobs Clearinghouse to provide training programs for adults and young people in Boston. EEPA presently relies on the Third World Jobs Clearinghouse to recruit and place minority workers in the construction industry. EEPA relies heavily on the expertise provided by CBO's to train and place Boston residents and will continue to work with CBO's in training and placing Boston residents, minorities and women in jobs created at Copley Place.

To the allegations contained in the administrative complaint that the UDAG will not produce equal employment opportunity and will not provide jobs for low and moderate income persons and minorities, the City responds by saying that nothing could be further from the truth. By virtue of the location of the project, it is clear that people living in the nearby neighborhoods, as well as in other areas of Boston, will find a readily available source of employment,

both temporary and permanent. It is anticipated that the development will provide 650 jobs per year on a temporary basis for construction purposes and over 6,000 jobs on a permanent basis, in varying types of positions which will include anything from the service positions provided by a hotel operation to secretarial skills, retail skills and those other skills required to be found in an office building or commercial development of this nature. The close proximity of the development to the various public transit lines makes the area accessible to all portions of the City, especially those areas containing lower and middle income persons and persons belonging to minorities.

The City has received a commitment from the developer to encourage tenants in all lease agreements to hire 50% Boston residents, 50% women, 30% minorities and 17.2% residents of the impact area, and has set aside space in the project to serve as a placement office for those jobs. As part of the UDAG negotiation, UIDC agreed to convene a meeting between the Mayor and the Chief Executive Officers of the prime tenants to offer a plan for the hiring at Copley Place of 50% Boston residents, 50% women, 30% minorities and 17.2% residents of the impact area. The developer is responsible for reporting to the Mayor and the City Council on a quarterly basis, the number of residents working at Copley Place for the first five years of operation.

PART VI

COPLEY PLACE WILL FURTHER EQUAL OPPORTUNITY

A. APPROVAL OF THE COPLEY PLACE UDAG PROPOSAL IS IN KEEPING WITH HUD'S MANDATE TO AFFIRMATIVELY FURTHER NATIONAL FAIR HOUSING GOALS.

Contrary to the assertions of the complainant, the approval of the Copley Place UDAG is in keeping with HUD's mandate to affirmatively further fair housing goals. The City disagrees with the complainant's allegations--all unsupported as previously noted--that Copley Place will cause significant displacement or that minorities will bear the brunt of the alleged displacement forces. As it was repeatedly and extensively demonstrated in Part V, Copley Place will not add significantly to the forces affecting displacement. It is not necessary to duplicate those arguments here or to discuss further the complainant's failure to grasp the complex forces which cause displacement or which often are mistaken for that phenomenon. Obviously, if there is no significant displacement of anyone, there cannot be significant displacement of minority group members. However, where displacement might occur, regardless of the cause, adequate housing opportunities do exist on an equal opportunity basis both within the impact area and throughout the City. The mechanisms which the City has established to assure these equal housing opportunities to minorities are outlined in Parts II and V.

With regard to the housing to be constructed as part of Copley Place, there is little question that it will further national fair housing goals. The complainant has not deemed otherwise and has not even mentioned this housing. For the record it should be noted that there will be a least 100 units with 25% designated for low-income households. This provision was incorporated into the Air-Rights Lease through the efforts of the Citizen's Review Committee. In conformance with Federal guidelines, the developer will submit an Affirmative Fair Housing Marketing Plan. The Mayor's Office of Fair Housing will provide technical assistance to the developer in designing and implementing the Affirmative Fair Housing Marketing Plan.

Copley Place has been designed to directly link its job creation benefits and other entrepreneurial opportunities to Boston's minority community through very specific affirmative action provisions. If HUD recognizes, as the City certainly does, that jobs and minority business opportunities translate into the ability to afford decent housing, then HUD would agree that the affirmative action provisions of Copley Place will provide an exceptionally effective vehicle for promoting housing opportunities for Boston minorities. It is important to reiterate those provisions: Construction hiring provisions of 25% minority, permanent hiring goals of 25% minority, 17.2% from surrounding neighborhoods, \$19 million minority business set-aside, 50% of the 15,000 to 20,000 square feet of community retail space reserved for CDC's and minority businesses at below market rent. These provisions are certainly significant by any measure.

As the complainant mentions in reference to Shannon v. U.S. Department of HUD, 436 F.2d 809 (3rd Cir., 1968), HUD has a duty to make an informed decision with regard to the effects of proposed HUD-funded projects on minority housing opportunities. It is the City's position that HUD has been provided with sufficient information to make an informed decision. It is not

necessary to quantify further the impact of Copley Place on the Boston metropolitan area because, as already stated in Section V, "...any direct demand generated by any single development will of necessity be highly diffused, impossible to measure in an isolated area, and statistically minuscule given the total number of housing units in the metropolitan region."

A1&2: Historical Patterns and Present Trends in Demographics

In this section, the complainant once again urges HUD to reject the Copley Place UDAG application on the grounds that this project will have significant adverse affects on "minority access and housing tenure". As before, the complainant focuses on the South End, citing the changing demographics during the 1960's and 1970's as proof that Urban Renewal caused displacement and disproportionately victimized low-income minorities.

No proof is offered to back up the assertion: "urban renewal was largely responsible for the dramatic halving of the South End's population between 1960 and 1970". Census figures show that the South End's population declined from 35,002 in 1960 to 22,680 in 1970. This is a 35.3% decline, a reduction of approximately 1/3, not 1/2 as the authors contend.

The Urban Renewal Plan didn't receive HUD approval until June 18, 1966, so the plan itself could be acted upon only during the last 3 years of the decade. This alone could not account for such a substantial decline.

In fact the opposite is the case. The neighborhood's sharp and steady loss of population going back into the 1950's was coming to an abrupt end. The population drop alone during the 1950's was over 22,000 residents, or equal to the entire 1970 population. Urban renewal played no part in that loss. By 1975, however, the population bounced back to 24,688, up 9% from 1970 during some of the most active renewal years.

The statement by the complainant that a population reduction of 13,000 people during the 1960's was caused by Urban Renewal when in reality 35,000 left the community during a 20-year span from 1950-1970 during 17 years of which no renewal activity had occurred indicates a lack of historical understanding.

The complainant, for example, continues to argue that minorities are being disproportionately displaced from the South End, while completely ignoring the continuing influx of minorities into the neighborhood described earlier in Chapter V, Section A-5. The fact that the South End retains 54% minority population should indicate that the complainants description is at variance with actual conditions in the neighborhood.

The complainant's description completely ignores the existence of vast quantities of subsidized housing which guarantees a long-term minority presence in the community. In addition, minority families who wish to leave the South End, have a choice of other neighborhoods in Boston, or other suburban communities in which to live. Despite the wider choice, the South End still serves as an important and desirable port-of-entry neighborhood for many minority immigrants arriving in Boston.

By endlessly repeating the argument that Copley Place will displace minorities and the poor, without providing tangible benefits for anyone, the complainant again reveals an unwillingness to place the dynamics of neighborhood change and urban revitalization in any historical or sociological perspective.

A3 Segregation and Discrimination

Contrary to the allegations of the complainant, minority group members will not be significantly displaced by Copley Place. As indicated above, there is little evidence to indicate that what has been happening in the South End represents a replacement of one racial or economic group by another. Rather there has been continued movement in and out of the neighborhood by people of all races and income groups. The existence in the area of substantial amounts of subsidized housing - and the prospect of significantly more - guarantees that this area will remain racially and economically mixed.

For minority group members who look for housing outside the impact area, there are a wide variety of choices within the City of Boston. (As noted in Section II, the HUD-approved AHOP for the Boston SMSA puts highest priority on expanding opportunities for minorities and low-income families in suburban areas). Subsidized housing is available by law on an equal opportunity basis in all Boston's neighborhoods. The Mayor's Office of Fair Housing stands ready to assist anyone interested in either subsidized or market rate housing anywhere in the City.

A4 Past Discrimination

The complainant alleges past discrimination in Federally-assisted housing programs in Boston. With respect to the Housing Improvement Program cited herein, it is important to note that HUD found no evidence of intentional discrimination on the part of the City, only a program structure which resulted in a less than proportionate degree of assistance going to minority homeowners. The City made a number of attempts to change the program and HUD now finds the City to be in compliance.

A5 Employment

Again, the complainant fails to acknowledge the significant benefits to low- and moderate-income persons and minorities which were negotiated through the CRC process as well as those incorporated by the City into the UDAG application. These are mentioned in at least three separate locations in the application.

In addition to the permanent and construction jobs agreements cited in Part V, the Copley Place project has provisions for a minimum of 100 units of housing with 25% reserved for low-income households, and provisions for 15,000 to 20,000SF of community retail space with 50% reserved for Community Development Corporations and Minority Business Enterprises at below market rents.

Furthermore, the City of Boston has required UIDC to set aside a minimum of \$19,000,000 worth of construction and or services for Minority Business Enterprises. By establishing this requirement within the UDAG application, the City has demonstrated a sincere effort to increase the growth of minority-owned firms in Boston.

The negotiated construction employment provisions by trade in the employment plan, which commits contractors to hire 25% minority workers, will greatly increase minority participation across the board in all trades. This provision will guarantee that minority workers will not be concentrated in lower paying trade classifications but will be evenly represented in all trades during the three and a half years of construction.

The \$19,000,000 Minority Business set-aside, the 50% resident, 25% minority and 10% women workers by trade during construction and the 50% Boston resident, 50% women, 30% minority and 17.2% impact area residents hiring goals for permanent jobs are significant commitments to minorities and low-income people. The City's Employment and Economic Policy Administration has estimated that through both training and referral services in place today that it will be able to fill a minimum of 16% of the new permanent jobs created with people who were previously unemployed. The City has made a total commitment to fill the newly-created jobs at Copley Place with Boston residents, minorities and low-income people. It appears that the agreement reached in the UDAG application far exceeds any UDAG application ever submitted to HUD in guaranteeing jobs for minorities and low-income people.

B. APPROVAL OF THE COPLEY PLACE UDAG PROPOSAL WOULD NOT VIOLATE TITLE VIII'S PROHIBITION AGAINST DISCRIMINATORY HOUSING PRACTICES OR ANY OTHER ASPECTS OF TITLE VIII

The complainant implies that the South End is the only area of the City in which minorities have access to housing, and therefore, that any displacement caused by the project would severely restrict minority housing choices. This is not the case.

Although as stated in the UDAG application, "The South End as a whole, comprises the most racially- and ethnically-mixed neighborhood in the City," it is by no means the only racially and ethnically-mixed neighborhood in the City. During the past decade the City has taken strong and affirmative steps to increase residential opportunities for minorities throughout Boston.

The City is committed to guaranteeing equal access to all parts of the City to all residents. The City has created agencies that work specifically to assure compliance with fair housing laws, the Community Disorders Unit of the Police Department and the Mayor's Office of Fair Housing. The City also has sought compliance and redress through state, and federal regulatory commissions, the Attorney General's Office and the U.S. Justice Department. Civil suits have been initiated by the City in cases where residents' civil rights have been abridged.

As indicated in Section II, there is subsidized housing in all areas of the City and it is available on a non-discriminatory basis. This provides access to affordable housing in racially-mixed neighborhoods and throughout the entire City. It is the City's and HUD's policy to actively promote freedom of choice in metropolitan areas. To imply as the complainant does that certain sections of the City should be reserved as minority enclaves is to sanction and perpetuate discrimination.

C. APPROVAL OF THE COPLEY PLACE UDAG PROPOSAL WOULD NOT VIOLATE TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Approval of the Copley Place UDAG proposal would not violate Title VI of the Civil Rights Acts of 1964. Comparing the anticipated effect of the Copley Place proposal to Garret vs City of Hamtramck 503F.22d 1236 (6th Cir., 1974) is totally inappropriate. The main contention in Garret was that Federal funds would be used to displace black residents, that little thought was given to the effect of displacement and that no plans were made to protect or to assure that housing would be available on a non-discriminatory basis to families who were displaced. The facts in the case bear no similarity to the current situation in Boston. As indicated above, there is no evidence that minorities will be disproportionately displaced. In any event, Boston has mechanisms for protecting and assuring that housing is available on a non-discriminatory basis. These are outlined in Section II and V.

The complainant alleges that the City has not developed adequate plans for relocation necessitated by Copley Place. The kind of detailed planning, with its emphasis on identification of specific families who are being displaced by governmental action, is clearly inapplicable in this instance. Since the site is currently vacant, no individuals or families will be subject to assistance required by the Uniform Relocation Act. However, there is no question that there will be people leaving the impact area and other sections of the City - for any number of reasons. It is impossible-certainly in advance of the project-to say which, if any, specific tenants are being involuntarily displaced as a result of Copley Place. Under these circumstances, the City has engaged in the only rational planning possible. As described in Section V-A6, the City is in the process of increasing the total housing supply, especially that earmarked for low- and moderate-income households. In addition, the Mayor's Office of Fair Housing (MOFH) has been established to assist those classes of people who have traditionally faced problems in the housing market.

In order to assure that housing is available on a non-discriminatory basis, MOFH will soon be expanding its powers through a City ordinance and a Home Rule petition which will give the Fair Housing Commission subpoena powers and fining powers. These two procedural tools will enable the City to effectively investigate and prosecute any instances of housing discrimination within the City of Boston. This is in addition to the powers which HUD and MCAD have over the City of Boston to process discrimination complaints.

As described above and in Section II, the City does possess mechanisms to assure non-discrimination in housing to all residents of Boston. Moreover, the economic benefits which Copley Place will provide to minorities are substantial and represent significant opportunities for participation in the economic revitalization of Boston.

PART VII

ENVIRONMENTAL PLANNING IS PROCEEDING WITHOUT SUBSTANTIAL PROBLEMS

A. THE COPLEY PLACE PROJECT CAN BE INITIATED IN A TIMELY FASHION

The City of Boston and the developer anticipate completion of the environmental review process by early October of 1980. This will include the Final EIS/EIR 30-day statutory review period as well as the necessary Section 106 agreements. The City anticipates completion of the Final EIS/EIR on or about September 1, 1980, assuming by that date satisfactory resolution of all outstanding issues, completion of all required wind tunnel studies and completion of the Section 106 review, all of which will be required by the City prior to its submission of the Final EIS/EIR for public and agency review.

B. COPLEY PLACE DOES NOT REQUIRE SUBSTANTIAL ADDITIONAL PLANNING

1. Project Design

In response to the complaint alleging that the UDAG application should be rejected because of its uncertain environmental status, in that Copley Place requires substantial additional environmental planning and the design remains tentative, it is respectfully submitted that, on the contrary, planning and design for the Copley Place project is well advanced. The environmental review process is also near completion and is not, as the complainants allege, months, if not years away.

The environmental review of the project has been in strict compliance with the National Environmental Policy Act of 1969 (P.L. 91-190, 83 Stat. 852, 42 U.S.C. 4321 et seq.), as well as with CEQ's implementing regulations set forth at 40 CFR 1500 et seq., and with HUD regulations at 24 CFR Section 58 et seq.

The Draft EIS/EIR was completed and distributed for public comment on February 15, 1980. Additional studies and analyses are being performed and draft responses to 95% of the comments on the Draft EIS/EIR have already been prepared as of this date. The Final EIS/EIR is expected to be submitted for review in September, 1980 with completion of the State and Federal review process expected by October, 1980 (See VII A above). This schedule includes wind tunnel studies for the project and completion of the Section 106 historic preservation review pursuant to 36 CFR Part 800 et seq.

The complainant inaccurately characterizes the reasons for the long development period, and inaccurately describe the status of planning and design for the project. The design has passed through schematic design toward more detailed design development, and in some cases with more than 60% completion of final design documents, including most site development elements.

The many months and many Citizens' Review Committee (CRC) meetings necessary to develop the Draft EIS/EIR evidence the important role that community participation has played in the development of this document.

The CRC Design Review Subcommittee has begun a series of design review meetings to guarantee continued compliance with CRC guidelines and will report its recommendations to the Massachusetts Turnpike Authority by mid-September, 1980 in accordance with the developer's Lease Agreement which established the CRC process. Assuming a positive response to the UDAG application on September 30, 1980, initiation of construction at the site is expected to begin in October, 1980.

2. Environmental Review

In response to the allegation that the environmental review is still in the preliminary stage, it is expected that the final EIS/EIR will be formally submitted to the appropriate State and Federal agencies in September of 1980. (See also VII A above). It is not, as the complainants propose, a "distant fix on the horizon."

The Massachusetts state environmental agency, the Executive Office of Environmental Affairs (EOEA), in conformance with its enabling legislation, has reviewed the Draft EIS/EIR and forwarded its comments in writing to the BRA and the developer. These comments represent legitimate concerns and questions to be addressed in the preparation of the Final EIS/EIR. They do not represent instructions... "to engage in numerous studies and alterations prior to submitting the Final EIS/EIR" or constitute factors which "would potentially cause great environmental change."

The complainant also inaccurately characterizes the efforts necessary to address these questions and concerns as defined by the complainant in Tasks a. through 1. EOEA has requested additional information and analysis on these questions; it has not ordered extensive studies or redesign of the project, as the complainants imply. Only Task b., wind tunnel tests, represents an expensive and involved testing and analysis program. These tests are now being performed and the preliminary pedestrian level wind report was made available for public comment on June 23, 1980. All other environmental issues identified by the EOEA and the complainants and by all other commenters will be address in the Final EIS/EIR, to be submitted in September, 1980.

C. THE PROGRAM AND THE NEIGHBORHOOD ENVIRONMENT

1. Energy

With reference to the complainants's remarks concerning the project's "excessive electricity demand", the complaint does not specify what the excess is or where it occurs. However, it is known that the developer is currently projecting that most of the project's energy needs will be supplied by electricity from Boston Edison which has stated that demand can adequately be met.

UIDC has stated that it is committed to the national and local policy concerning energy conservation and that it has evaluated alternative energy systems on the basis of life cycle costs. The developer asserts that life cycle costing has formed the backbone of design development evaluation and that it has afforded consideration to fuel oil and natural gas plants, purchased steam, co-generation, and solar. Furthermore, UIDC has indicated that it has not, as the complainants charge, "accepted without

question or study the traditional, but outmoded, concept that electricity is the best energy solution." The developer also has indicated that it plans to consider life-cycle costing in its design proposals which would meet proposed Federal and State energy conservation measures.

The energy conservation requirements of the Massachusetts Building Code will be followed, and several other measures listed in the Draft EIS/EIR (pp 7-159 through 7-163) will be incorporated into the project to insure that energy consumption will meet local and national policy goals. Moreover, the project will not be "encased in glass", and several conservation measures cited in the Draft EIS/EIR are being undertaken to further reduce heating and cooling loss from those areas which are enclosed in glass. It is anticipated, now that several portions of the project are in design development, that approximately 30 percent of the exterior facade will be glass. Insulation materials will meet or exceed the requirements of the Massachusetts State Building Code.

With regard to solar or wind power, there currently do not exist any commercially proven solar or wind alternatives which could satisfy the energy requirements of a project the scale of Copley Place. Even solar advocates recognize and admit that solar energy, active and passive combined, is not the answer-all. The base energy requirement of a project like Copley Place, therefore, must be founded on the available, so called "traditional", energy systems defined above for lack of acceptable solar or wind alternatives.

The developer does not claim, contrary to the allegations, that the Boston Edison generating capacity will be dramatically increased by the Pilgrim II Nuclear Plant. Neither is there a claim on the part of Boston Edison that Pilgrim II is necessary to supply Copley Place with electricity nor that Boston Edison is operating at capacity. It should be noted that Pilgrim II was conceived by Boston Edison long before Copley Place and that Edison would build Pilgrim II regardless of whether Copley Place is developed or not. Should the construction of additional nuclear facilities not be approved, Boston Edison would, of necessity, develop or find alternative generating capacity to serve future needs, including those of Copley Place.

2. Shadows

As for the claim that the program will have an adverse impact on the neighborhood environment by virtue of its shadows, it is to be noted that the project contains low- and mid-rise buildings and two 30-story hotel towers. Furthermore, the project does not dominate Copley Square as suggested in the complaint. Instead, it abuts only one corner of the Square and the podium height of the Western International Hotel is harmonious with the height of the Boston Public Library and the Copley Plaza Hotel.

During the winter months the two hotel towers will cast shadows upon Copley Square as the sun sweeps low on the southern horizon. The brief period of time when the shadow is solely the result of shadows cast from Copley Place will be minimal compared to the existing shadow and duration of shadow cast by the John Hancock Tower and the Prudential Center.

During the summer, no shadows will be cast by the Copley Place Project on Copley Square or Trinity Church. This coincides with the period of highest use of the square. The complainant implies that "a tremendous volume of casual pedestrian traffic, many of whom came there solely to sit in the sun" will be denied sun by winter shadows cast by Copley Place. It would be more accurate to state that the casual pedestrian in the winter would find some additional shadow during the afternoon.

3. Traffic

Traffic generated by Copley Place is not projected to have a dramatic and detrimental impact on the neighborhood streets surrounding the project. The only additional vehicular traffic will be that associated with the parking capacity of the project, with other traffic drawn solely to the project, and with taxis and service vehicles supplying the project. Present capacity of street side parking in the surrounding neighborhoods is fully utilized, as is existing off-street parking. In simple terms, if there is no place to park, people normally respond by not using their cars. Those who do have a parking space at their destination will utilize the Turnpike and major arterials and will generally not take shortcuts through residential neighborhoods.

There will be, however, a transition period immediately after the opening of the project when "cruising" for on-street parking spaces will be noticeable, but this is expected to diminish and stabilize as users come to learn the realities of parking limitations and consequently switch to other modes of transportation. The attraction of neighborhood parking to commuters, existing and future, will be also significantly lessened by fulfillment of the City's commitment to a resident sticker parking program.

The Copley Place Transportation Impact Study, a technical report in support of the Draft EIS/EIR, accurately discusses the capacities of many intersections. The study meticulously employs the principals of traffic engineering, taking the 1975 traffic survey information and updating it on the basis of 1978 spot-counts. The traffic study area was not arbitrarily defined; the study area represents the limits of probable traffic influence attributable to Copley Place. Moreover, the Draft EIS/EIR did evaluate a number of major intersections in the South End and Fenway areas including those along Massachusetts Avenue (see Page 7-60), contrary to the complainant's allegations. As a final point in response to the complaint, traffic volume projections for 1983 and 1995 include the influence of projects now being planned or under construction, and are derived from the base line data supplied by the Central Transportation Planning Staff (CTPS), reviewed by BRA and accepted by a study group of the CRC. Future estimates are considered to be on the expansive side.

The project as a whole, as well as other areas of Back Bay, will experience an order of magnitude increase in transit accessibility due to the relocation of the Orange Line with a stop at Back Bay Station and Massachusetts Avenue. The upgraded Amtrak service as well as commuter rail operations to Back Bay Station also enhance the prospects of non-automotive access to the area.

PART VIII

CONCLUSION: HUD CAN AND SHOULD GRANT A UDAG FOR COPLEY PLACE

In the body of this response to the Administrative Complaint, the City of Boston has dealt at length with each point raised by the complainant. The City's response has been grounded firmly in HUD regulations, Boston's record of accomplishment, and the facts of the situation. The basic outline of the argument is easily understandable and demonstrates quite clearly the strength of the City's case.

In the first place, there can be little question that Boston meets all criteria for eligibility established by law, regulation or judicial interpretation for the UDAG program. In particular, the Copley Place project meets the essential UDAG criteria in that it would not be feasible without UDAG funds. This project has been the object of intense scrutiny by the citizens of Boston over a period of three years. The UDAG application was approved by their elected governing body, the City Council, and meets all applicable requirements regarding public participation.

The Copley Place project has, of course, been the subject of all required environmental reviews. Planning and design for the project is well advanced and the studies necessary to respond to a number of comments on the draft EIS/EIR are presently being completed.

Most importantly the administrative complaint reveals the complainant's confusion regarding the underlying forces affecting displacement as well as a lack of knowledge concerning existing market forces. Furthermore, the complainant refuses to recognize the significant efforts the City has made and is continuing to make in providing for its low- and moderate-income residents and minorities in this regard.

Copley Place will have impressive benefits for the City's low- and moderate-income citizens and for the disproportionate number of them who are members of minority groups. The project will provide jobs, tax revenues, mixed-income housing and loan repayment funds which can be used for neighborhood development projects. The City has established a battery of equal opportunity and affirmative action measures to ensure that the targeted groups will, in fact, benefit as intended.

The City of Boston urges HUD to look beyond the rhetoric of the administrative complaint to see a project which, through the participation and persistence of the City and the community, will provide precedent setting benefits to the residents of Boston. On behalf of the residents of Boston, especially its low- and moderate-income residents and minorities of all neighborhoods, the City of Boston urges HUD to dismiss the administrative complaint and to fund the UDAG application. Just as the City of Boston is proud to support such a precedent setting project, so too should HUD be proud to support Copley Place and the benefits which it represents. Copley Place deserves HUD's support.

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